



Journal of the Senate

Number 20—Regular Session

Wednesday, April 30, 2003

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[See end of Journal for Bill Action Summary]

CALL TO ORDER

The Senate was called to order by President King at 10:00 a.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

PRAYER

The following prayer was offered by Richard D. Agler, Doctor of Divinity, Senior Rabbi of Congregation B'nai Israel, Boca Raton:

I commend the Senate for opening the session with this uniquely human activity, one of our highest human activities before we undertake the vital business of this day.

Our God and God of all humanity, we ask your blessings upon us. We thank you, O Lord, for this new day, and for the opportunities it gives us to fulfill your commandments and to do your will. As Senators democratically elected, we recognize that we are uniquely blessed. Ideally beholden only to the aspirations of the people of our communities and to you, we have been given an opportunity that few have had in all of human history.

We pray, O God, that we might use this privilege for good—for the greatest good for the greatest number, and especially on behalf of those who need our help the most. May we use it to build the world you have commanded us to build—the world of justice, right, and peace.

We know that we face many obstacles, our own shortcomings, and we know they are many, limit us. The pressures brought by narrow interests can warp us. The bright spotlight can chill us, or as we acknowledge

before you, it can feed a more than adequately fed part of us—our vainglory which may cause us to misstep before you.

We also face a sometimes cynical public, and we recognize that we have on occasion given them reason to be that. So we turn to you this day, O Lord, and ask for strength, wisdom, and insight; strength to overcome our shortcomings; wisdom to understand that we are here to serve, not merely party or ideology, but you and all of your children. Grant us insight to enable us to be humble and decent in the public eye and with one another, and of course in our personal lives as well. With your strength added to ours, help us betray the people's cynicism and enable us to reward them with the blessings that only a healthy democracy can provide.

As the Legislature's session nears its close, we are mindful that what we do will be seen, so let us not be afraid to reach for great heights; let us model leadership so that it is said of us that our deliberations and our dealings offer the most precious of human commodities—that of hope. Above all let us remember that in the end, O God, we are accountable to you.

With this in mind, we pray that the words of our mouths, the work of our hands, and our desire for service is acceptable unto thee, O God, our Rock and our Redeemer. Amen.

PLEDGE

Senate Pages Kelly Hancock of Fort Lauderdale, Jessica Jones of Windermere and Julianne McCullough of Balm, led the Senate in the pledge of allegiance to the flag of the United States of America.

DOCTOR OF THE DAY

The President recognized Dr. Dennis F. Saver of Vero Beach, sponsored by Senator Haridopolos, as doctor of the day. Dr. Saver specializes in Family Practice.

ADOPTION OF RESOLUTIONS

At the request of Senator Constantine—

By Senator Constantine—

SR 2974—A resolution commending the members of Girl Scout Troop 2039, and recognizing April 11, 2003, as “Kids With Character Day” in the State of Florida.

WHEREAS, Girl Scout Troop 2039 is based in Seminole County, Florida, and is made up of 11 young women, Casey M. Albano, Mikaela A. White Case, Jewel I. P. Charles, Kerry M. Gibbons, Kaylee A. Knosala, Dara M. Kusiv, Rachel A. Mittler, Emily A. Skalko, Rachel M. Sofarelli, Delaney N. Thompson, and Chloe A. Grandin, and

WHEREAS, on April 11, 2003, the members of Girl Scout Troop 2039 unanimously endorsed a resolution formally adopting a “Kids With Character Day” and expressing their collective resolve to respect the mind and body, honor humanity, ascribe to personal attributes that reflect absolute character, make a difference in the community, preserve the environment, and display patriotism in the pursuit of absolute character, and

WHEREAS, Girl Scout Troop 2039 urges all parents and educators, and all business, professional, civic, and government leaders to foster, respect, and recognize kids with character through the observance of “Kids With Character Day,” NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate commends the members of Girl Scout Troop 2039 for their outstanding leadership in promoting responsible citizenship by resolving to pursue absolute character in every important aspect of their personal lives and by adopting a "Kids With Character Day," and recognizes April 11, 2003, as "Kids With Character Day" in the State of Florida.

—**SR 2974** was introduced, read and adopted by publication.

By direction of the President, the rules were waived and the Senate proceeded to—

SPECIAL ORDER CALENDAR

On motion by Senator Alexander, by unanimous consent—

CS for CS for SB 1202—A bill to be entitled An act relating to motor vehicle insurance costs; providing a short title; providing legislative findings and purpose; amending s. 119.105, F.S.; prohibiting disclosure of confidential police reports for purposes of commercial solicitation; amending s. 316.066, F.S.; requiring the filing of a sworn statement as a condition to accessing a crash report stating the report will not be used for commercial solicitation; providing a penalty; creating part XIII of ch. 400, F.S., entitled the Health Care Clinic Act; providing for definitions and exclusions; providing for the licensure, inspection, and regulation of health care clinics by the Agency for Health Care Administration; requiring licensure and background screening; providing for clinic inspections; providing rulemaking authority; providing licensure fees; providing fines and penalties for operating an unlicensed clinic; providing for clinic responsibilities with respect to personnel and operations; providing accreditation requirements; providing for injunctive proceedings and agency actions; providing administrative penalties; amending s. 456.0375, F.S.; excluding certain entities from clinic registration requirements; providing retroactive application; amending s. 456.072, F.S.; providing that making a claim with respect to personal injury protection which is upcoded or which is submitted for payment of services not rendered constitutes grounds for disciplinary action; amending s. 626.7451, F.S.; providing a per-policy fee to be remitted to the insurer's Special Investigations Unit, the Division of Insurance Fraud of the Department of Financial Services, and the Office of Statewide Prosecution for purposes of preventing, detecting, and prosecuting motor vehicle insurance fraud; amending s. 627.732, F.S.; providing definitions; amending s. 627.736, F.S.; requiring that medical services be lawfully rendered; providing allowable amounts for specified services; requiring the Department of Health, in consultation with medical boards, to identify certain diagnostic tests; specifying effective dates; providing for application of fee schedules; specifying effective dates; deleting certain provisions governing arbitration; providing for compliance with billing procedures; prohibiting insurers from authorizing physicians to change opinion in reports; providing requirements for physicians with respect to maintaining such reports; expanding provisions providing for a demand letter; providing a medical peer review process; providing requirements for alternative dispute resolution; limiting attorney's fees if matters are not resolved by medical peer review and alternative dispute resolution; authorizing the Financial Services Commission to determine cost savings under personal injury protection benefits under specified conditions; amending s. 627.739, F.S.; specifying application of a deductible amount; amending s. 768.79, F.S.; specifying applicability of provisions relating to offer of judgment and demand for judgment; amending s. 817.234, F.S.; providing that it is a material omission and insurance fraud for a physician or other provider to waive a deductible or copayment or not collect the total amount of a charge; increasing the penalties for certain acts of solicitation of accident victims; providing mandatory minimum penalties; prohibiting certain solicitation of accident victims; providing penalties; prohibiting a person from participating in an intentional motor vehicle accident for the purpose of making motor vehicle tort claims; providing penalties, including mandatory minimum penalties; amending s. 817.236, F.S.; increasing penalties for false and fraudulent motor vehicle insurance application; creating s. 817.2361, F.S.; prohibiting the creation or use of false or fraudulent motor vehicle insurance cards; providing penalties; amending s. 921.0022, F.S.; revising the offense severity ranking chart of the Criminal Punishment Code to reflect changes in penalties and the creation of additional offenses under the act; providing legislative intent with respect to the retroactive application of certain provisions; repealing s. 456.0375, F.S., relating to the

regulation of clinics by the Department of Health; requiring certain insurers to make a rate filing to conform the per-policy fee to the requirements of the act; specifying the application of any increase in benefits approved by the Financial Services Commission; providing for application of other provisions of the act; requiring reports; providing an appropriation and authorizing additional positions; providing effective dates.

—was taken up out of order and read the second time by title.

Senator Alexander moved the following amendments which were adopted:

Amendment 1 (153036)—On page 5, lines 26 and 27, delete those lines and insert: *peer review process for disputes in order*

Amendment 2 (504516)—On page 13, lines 2 and 3, delete those lines, and insert: *business name or management as another clinic. Mobile clinics must provide to the agency, at least quarterly, their projected street locations to enable the agency to locate and inspect such clinics.*

Amendment 3 (713190)—On page 14, line 2, before the period (.) insert: *, or general partners in limited liability partnerships*

Amendment 4 (780302)—On page 14, line 23, after the period (.) insert: *As an alternative to submitting a balance sheet and an income and expense statement for the first year of operation, the applicant may file a surety bond of at least \$500,000 which guarantees that the clinic will act in full conformity with all legal requirements for operating a clinic, payable to the agency. The agency may adopt rules to specify related requirements for such surety bond.*

Amendment 5 (474534)—On page 17, line 24, after the period (.) insert: *An application for change of ownership of a license is required only when 45 percent or more of the ownership, voting shares, or controlling interest of a clinic is transferred or assigned, including the final transfer or assignment of multiple transfers or assignments over a 2-year period that cumulatively total 45 percent or greater.*

Amendment 6 (611330)—On page 23, line 2, after the period (.) insert: *After obtaining accreditation as required by this subsection, each such clinic must maintain accreditation as a condition of renewal of its license.*

Amendment 7 (814742)—On page 27, line 30 through page 28, line 10, delete those lines and insert: *submitting a claim statement, or bill that has been "upcoded" as defined in s. 627.732.*

Senator Smith moved the following amendment which was adopted:

Amendment 8 (311714)—On page 29, lines 1-19, delete those lines and insert: *filing and shall be fully earned. A managing general agent that collects a per-policy fee shall remit a minimum of \$5 per policy to the Division of Insurance Fraud of the Department of Financial Services, which shall be dedicated to the prevention and detection of motor vehicle insurance fraud, and an additional \$5 per policy, 95 percent of which shall be remitted to the Justice Administration Commission, which shall distribute the collected fees to the state attorneys of the 20 judicial circuits for investigating and prosecuting cases of motor vehicle insurance fraud. The state attorneys must adopt an allocation formula that ensures equitable distribution among the 20 circuits which includes, but is not limited to, the population area served. The remaining 5 percent shall be remitted to the Office of Statewide Prosecution for investigating and prosecuting cases of motor vehicle insurance fraud. An insurer that writes directly without a managing general agent and that charges a per-policy fee shall charge an additional policy fee of \$5 per policy to be remitted to the Division of Insurance Fraud of the Department of Financial Services, which shall be dedicated to the prevention and detection of motor vehicle insurance fraud, and an additional per-policy fee of \$5, 95 percent of which is to be remitted to the Justice Administration Commission, to be distributed as provided in this subsection. The remaining 5 percent shall be remitted to the Office of Statewide Prosecution for investigating and prosecuting cases of motor vehicle insurance fraud. No later than July 1, 2005, the state attorneys and the Office of Statewide Prosecutor must provide a report to the President of the Senate and the Speaker of the House of Representatives evaluating the effectiveness of the investigation, detection, and prosecution of motor vehicle insurance fraud as it related to the moneys generated by the per-policy fee.*

Senator Bennett moved the following amendment which failed:

Amendment 9 (604654)(with title amendment)—On page 29, line 26 through page 75, line 24, delete those lines and insert:

Section 8. Section 408.7058, Florida Statutes, is created to read:

408.7058 *Statewide health care practitioner and personal injury protection insurer claim dispute resolution program.*—

(1) *As used in this section:*

(a) “Agency” means the Agency for Health Care Administration.

(b) “Resolution organization” means a qualified independent third-party claim dispute resolution entity selected by and contracted with the Agency for Health Care Administration.

(c) “Health care practitioner” means a health care practitioner defined in s. 456.001(4).

(d) “Claim” means a claim for payment for services submitted under s. 627.736(5).

(e) “Claim dispute” means a dispute between a health care practitioner and an insurer as to the proper coding of a charge submitted on a claim under s. 627.736(5) by a health care practitioner, or as to the reasonableness of the amount charged by the health care practitioner.

(f) “Insurer” means an insurer providing benefits under s. 627.736.

(2)(a) The agency shall establish a program by January 1, 2004, to provide assistance to health care practitioners and insurers for resolution of claim disputes that are not resolved by the health care practitioner and the insurer. The agency shall contract with a resolution organization to timely review and consider claim disputes submitted by health care practitioners and insurers and recommend to the agency an appropriate resolution of those disputes.

(b) The resolution organization shall review claim disputes filed by health care practitioners and insurers pursuant to this section when a notice of participation is submitted pursuant to subsection (3), unless a demand letter has been submitted to the insurer under s. 627.736(11) or a suit has been filed on the claim against the insurer relating to the disputed claim.

(3) Resolutions by the resolution organization shall be initiated as follows:

(a) A health care practitioner may initiate a dispute resolution by submitting a notice of dispute within 10 days after receipt of a payment under s. 627.736(5)(b), which payment is less than the amount of the charge submitted on the claim. The notice of dispute shall be submitted to both the agency and the insurer by United States certified mail or registered mail, return receipt requested. The health care practitioner shall include with the notice of dispute any documentation that the health care practitioner wishes the resolution organization to consider which demonstrates that the charge or charges submitted on the claim are reasonable. The insurer shall have 10 days after the date of receipt of the notice of dispute within which to submit both to the resolution organization and the health care practitioner by United States certified mail or registered mail, return receipt requested, a notice of participation in the dispute resolution and any documentation that the insurer wishes the resolution organization to consider which demonstrates that the charge or charges submitted on the claim are not reasonable.

(b) An insurer may initiate a dispute resolution prior to the claim being overdue, including any additional time the insurer has to pay the claim pursuant to paragraph (4)(b), by submitting a notice of dispute together with a payment to the health care practitioner under s. 627.736(5)(b) of the amount the insurer contends is the highest proper reasonable charge for the claim. The notice of dispute shall be submitted to both the agency and the health care practitioner by United States certified mail or registered mail, return receipt requested. The insurer shall include with the notice of dispute any documentation that the insurer wishes the resolution organization to consider which demonstrates that the charge or charges submitted on the claim are not reasonable. The health care practitioner shall have 10 days after the date of receipt of the notice of dispute within which to submit both to the resolution organization and the insurer by United States certified mail or registered mail, return receipt requested, a notice of participation in the dispute resolution

and any documentation that the health care practitioner wishes the resolution organization to consider which demonstrates that the charge or charges submitted on the claim are reasonable.

(c) An insurer or health care practitioner may refuse to participate in a dispute resolution by not submitting a notice of participation in the dispute resolution pursuant to paragraph (a) or (b). An insurer or health care practitioner shall not be liable for the review costs, as established pursuant to subsection (8), of the dispute resolution conducted pursuant to this section unless it has participated in the dispute resolution pursuant to this subsection and is liable for such costs pursuant to subsection (6).

(d) Upon initiation of a dispute resolution pursuant to this section, no demand letter under s. 627.736(11) may be sent in regard to the subject matter of the dispute resolution unless:

1. A notice of participation has not been timely submitted pursuant to paragraphs (a) or (b);

2. The dispute resolution organization or the agency has not been able to issue a notice of resolution or final order within the time provided pursuant to subsection (6); or

3. The insurer has failed to pay the reasonable amount pursuant to the final order adopting the notice of resolution together with the interest and penalties specified in subsection (6), if applicable.

(e) The applicable statute of limitations shall be tolled while a dispute resolution is pending and for a period of 15 business days following:

1. Expiration of time for the submission of a notice of participation pursuant to paragraphs (a) or (b);

2. Expiration of time for the filing of the final order adopting the notice of resolution pursuant to subsection (6); or

3. The filing, with the agency clerk, of the final order adopting the notice of resolution.

(4)(a) The resolution organization shall issue a notice of resolution within 10 business days after the date the organization receives all documentation from the health care practitioner or the insurer pursuant to subsection (3).

(b) The resolution organization shall dismiss a notice of dispute if:

1. The resolution organization has not received a notice of participation pursuant to subsection (3) within 15 days after receiving a notice of dispute; or

2. The dispute resolution organization is unable to issue a notice of resolution within the time provided by subsection (5); however, the parties may with mutual agreement extend the time for the issuance of the notice of resolution by sending the dispute resolution organization a written notice of extension signed by both parties and specifying the date by which a notice of resolution must be issued or the notice of dispute will be deemed dismissed.

(c) The resolution organization may, in its discretion, schedule and conduct a telephone conference with the health care practitioner and the insurer to facilitate the dispute resolution in a cost-effective, efficient manner.

(d) In determining the reasonableness of a charge or charges, the resolution organization may consider whether a billing code or codes submitted on the claim are the codes that accurately reflect the diagnostic or treatment service on the claim or whether the billing code or codes should be bundled or unbundled.

(e) In determining the reasonableness of a charge or charges, the resolution organization shall determine whether the charge or charges are less than or equal to the highest reasonable charge or charges that represent the usual and customary rates charged by similar health care practitioners licensed under the same chapter for the geographic area of the health care practitioner involved in the dispute, and, if the charges in dispute are less than or equal to such charges, the resolution organization shall find them reasonable. In determining the usual and customary rates in accordance with this paragraph, the dispute resolution organization may not take into consideration any information relating to, or based

wholly or partially on, any governmentally set fee schedule or any contracted-for or discounted rates charged by health care practitioners who contract with health insurers, health maintenance organizations, or managed care organizations.

(f) A health care practitioner, who must be licensed under the same chapter as the health care practitioner involved in the dispute, may be used to advise the resolution organization if such advice will assist the resolution organization in resolving the dispute in a more cost-effective, efficient manner.

(5)(a) The resolution organization shall issue a notice of resolution within 10 business days after receipt of the notice of participation pursuant to subsection (3). The notice of resolution shall be based upon findings of fact and shall be considered a recommended order. The notice of resolution shall be submitted to the health care practitioner and the insurer by United States certified mail or registered mail, return receipt requested, and to the agency.

(b) The notice of resolution shall state:

1. Whether the charge or charges submitted on the claim are reasonable; or

2. If the resolution organization finds that any charge or charges submitted on the claim are not reasonable, the highest amount for such charge or charges that the resolution organization finds to be reasonable.

(6)(a) In the event that the notice of resolution finds that any charge or charges submitted on the claim are not reasonable but that the highest reasonable charge or charges are more than the amount or amounts paid by the insurer, the insurer shall pay the additional amount found to be reasonable within 10 business days after receipt of the final order adopting the notice of resolution, together with applicable interest under s. 627.736(4)(c) and a penalty of 10 percent of the additional amount found to be reasonable, subject to a maximum penalty of \$250.

(b) In the event that the notice of resolution finds that the charge or charges submitted on the claim are reasonable, the insurer shall pay the additional amount or amounts found to be reasonable within 10 business days after receipt of the final order adopting the notice of resolution, together with applicable interest under s. 627.736(4)(c) and a penalty of 20 percent of the additional amount found to be reasonable, subject to a maximum penalty of \$500.

(c) In the event that the final order adopting the notice of resolution finds that the amount or amounts paid by the insurer are equal to or greater than the highest reasonable charge, the insurer shall not be liable for any interest or penalties.

(d) The agency shall issue a final order adopting the notice of resolution within 10 days after receipt of the notice of resolution. The final order shall be submitted to the health care practitioner and the insurer by United States certified mail or registered mail, return receipt requested.

(7)(a) If the insurer has paid the highest reasonable amount or amounts as determined by the final order adopting the notice of resolution, together with the interest and penalties provided in subsection (6), if applicable, then no civil action by the health care practitioner shall lie against the insurer on the basis of the reasonableness of the charge or charges, and no attorney's fees may be awarded for legal assistance related to the charge or charges. The injured party is not liable for, and the health care practitioner shall not bill the injured party for, any amounts other than the copayment and any applicable deductible based on the highest reasonable amount as determined by the final order adopting the notice of resolution.

(b) The notice of dispute and all documents submitted by the health care practitioner and the insurer, together with the notice of resolution and the final order adopting the notice of resolution, may be introduced into evidence in any civil action if such documents are admissible pursuant to the Florida Evidence Code.

(8) The insurer shall be responsible for payment of the entirety of the review costs established pursuant to subsection (9).

(9) The agency shall adopt rules to establish a process to be used by the resolution organization in considering claim disputes submitted by a health care practitioner or insurer and the fees that may be charged by

the agency for processing disputes under this section. Such fees may not exceed \$75.00 for each review.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 10 through page 3, line 2, delete those lines and insert: vehicle insurance fraud; creating s. 408.7058, F.S.; providing definitions; creating a dispute resolution organization for disputes between health care practitioners and insurers; providing duties of the Agency for Health Care Administration; providing duties of the dispute resolution organization; providing procedures, requirements, limitations, and restrictions for resolving disputes; providing agency rulemaking authority; amending

Senator Alexander moved the following amendments which were adopted:

Amendment 10 (931116)—On page 30, line 24, before the semicolon (;) insert: or licensed under ss. 400.901-400.921

Amendment 11 (844528)—On page 31, line 17 through page 33, line 26, delete those lines and insert:

(9) "Immediate personal supervision," as it relates to the performance of medical services by nonphysicians not in a hospital, means that an individual licensed to perform the medical service or provide the medical supplies must be present within the confines of the physical structure where the medical services are performed or where the medical supplies are provided such that the licensed individual can respond immediately to any emergencies if needed.

(10) "Incident," with respect to services considered as incident to a physician's professional service, for a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, if not furnished in a hospital, means such services must be an integral, even if incidental, part of a covered physician's service.

(11) "Knowingly" means that a person, with respect to information, has actual knowledge of the information; acts in deliberate ignorance of the truth or falsity of the information; or acts in reckless disregard of the information, and proof of specific intent to defraud is not required.

(12) "Lawful" or "lawfully" means in substantial compliance with all relevant applicable criminal, civil, and administrative requirements of state and federal law related to the provision of medical services or treatment.

(13) "Hospital" means a facility that, at the time services or treatment were rendered, was licensed under chapter 395.

(14) "Properly completed" means providing truthful, substantially complete, and substantially accurate responses as to all material elements to each applicable request for information or statement by a means that may lawfully be provided and that complies with this section, or as agreed by the parties.

(15) "Upcoding" means an action that submits a billing code that would result in payment greater in amount than would be paid using a billing code that accurately describes the services performed. The term does not include an otherwise lawful bill by a magnetic resonance imaging facility, which globally combines both technical and professional components for services listed in that definition, if the amount of the global bill is not more than the components if billed separately; however, payment of such a bill constitutes payment in full for all components of such service.

(16) "Unbundling" means an action that submits a billing code that is properly billed under one billing code, but that has been separated into two or more billing codes, and would result in payment greater in amount than would be paid using one billing code.

Senator Campbell moved the following amendment which was adopted:

Amendment 12 (480376)(with title amendment)—On page 33, line 27 through page 75, line 24, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 2, line 11 through page 3, line 2, delete those lines and insert: F.S.; providing definitions; amending

Senator Alexander moved the following amendment:

Amendment 13 (603098)—On page 33, line 30 through page 34, line 1, delete those lines and insert: redesignated as subsection (13) and amended, and new subsections (12) and (14) are added to that section, to

On motion by Senator Alexander, further consideration of **CS for CS for SB 1202** with pending **Amendment 13 (603098)** was deferred.

On motion by Senator Diaz de la Portilla, by unanimous consent—

CS for CS for SB 742—A bill to be entitled An act relating to the Florida Clean Indoor Air Act; implementing s. 20, Art. X of the State Constitution; reenacting s. 386.201, F.S., relating to a short title; amending s. 386.202, F.S.; providing legislative intent and findings; amending s. 386.203, F.S.; providing definitions; amending s. 386.204, F.S.; prohibiting smoking in certain places; requiring the posting of signs; creating s. 386.2045, F.S.; establishing specific exceptions where smoking is permitted; amending s. 386.205, F.S.; providing for designated smoking rooms; providing certain exceptions; requiring state agencies to adopt rules; amending s. 386.206, F.S.; providing requirements for the posting of signs in rooms designated as smoking rooms; amending s. 386.207, F.S.; providing for enforcement of the act by the Department of Business and Professional Regulation and the Department of Health; providing penalties; providing for the use of moneys collected as fines under the act; amending s. 386.208, F.S.; providing additional penalties; reenacting s. 386.209, F.S., relating to preemption by the state of the regulation of smoking; amending s. 386.211, F.S.; providing for announcements at certain facilities; amending s. 386.212, F.S.; prohibiting smoking near school property; creating s. 386.2125, F.S.; requiring the Department of Health to adopt rules; creating s. 386.213, F.S.; providing for effect of any invalidity of certain provisions; providing for severability; providing an effective date.

—was taken up out of order and read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB 742** to **HB 1757**.

Pending further consideration of **CS for CS for SB 742** as amended, on motion by Senator Diaz de la Portilla, by two-thirds vote **HB 1757** was withdrawn from the Committees on Regulated Industries; Appropriations Subcommittee on General Government; Appropriations; and Rules and Calendar.

On motion by Senator Diaz de la Portilla, the rules were waived and by two-thirds vote—

HB 1757—A bill to be entitled An act relating to the Florida Clean Indoor Air Act; revising various provisions of pt. II of ch. 386, F.S., the Florida Clean Indoor Air Act, for the purpose of implementing s. 20, Art. X of the State Constitution; amending s. 386.201, F.S.; providing a popular name; amending s. 386.202, F.S.; revising legislative intent; amending s. 386.203, F.S.; providing definitions; amending s. 386.204, F.S.; revising exceptions to the prohibition on smoking in an enclosed indoor workplace; amending s. 386.206, F.S.; providing for continuation of requirements with respect to the posting of signs stating that smoking is not permitted in an indoor workplace; providing for expiration of such provisions; requiring the proprietor or person in charge of an enclosed indoor workplace to develop and implement a policy regarding smoking prohibitions; amending s. 386.207, F.S., relating to administration, enforcement, and civil penalties; removing a cross reference, to conform; eliminating exemptions; amending s. 386.208, F.S.; clarifying language; reenacting s. 386.209, F.S., which preempts regulation of smoking to the state; amending s. 386.211, F.S., relating to public announcements in mass transportation terminals, to conform; reenacting s. 386.212, F.S., which prohibits any person under 18 years of age from smoking tobacco in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school and provides penalties therefor; repealing s. 386.205, F.S., relating to designation of smoking areas; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 742** as amended and read the second time by title.

Senators Diaz de la Portilla and Smith offered the following amendment which was moved by Senator Diaz de la Portilla:

Amendment 1 (611192)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 386.201, Florida Statutes, is reenacted to read:

386.201 Short title.—This part may be cited as the “Florida Clean Indoor Air Act.”

Section 2. Section 386.202, Florida Statutes, is amended to read:

386.202 Legislative intent.—The purpose of this part is to protect people from the public health hazards of second-hand, comfort, and environment by creating areas in public places and at public meetings that are reasonably free from tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution by providing a uniform statewide maximum code. This part shall not be interpreted to require the designation of smoking areas. However, it is the intent of the Legislature to discourage the designation of any area within a government building as a smoking area. It is the intent of the Legislature to not inhibit, or otherwise obstruct, smoking cessation programs, medical research, or scientific research in this state. The Legislature finds that tobacco smoking that is integral to a smoking cessation program, medical research, or scientific research does not present a credible public health hazard from second-hand smoke.

Section 3. Section 386.203, Florida Statutes, is amended to read:

386.203 Definitions.—As used in this part, the term:

(1) “Commercial use of a private residence” means any time during which the owner, lessee, or other person occupying or controlling the use of a private residence is furnishing in the private residence, or causing or allowing to be furnished in the private residence, child care, adult care, or health care, or any combination thereof, and receiving or expecting to receive compensation therefor.

(2) “Common area” means a hallway, corridor, lobby, aisle, water fountain area, restroom, stairwell, entryway, or conference room in a public place.

(3) “Department” means the Department of Health.

(4) “Designated smoking guest rooms at public lodging establishments” means the sleeping rooms and directly associated private areas, such as bathrooms, living rooms, and kitchen areas, if any, rented to guests for their exclusive transient occupancy in public lodging establishments including hotels, motels, resort condominiums, transient apartments, transient lodging establishments, rooming houses, boarding houses, resort dwellings, bed and breakfast inns, and the like; and designated by the person or persons having management authority over such public lodging establishment as rooms in which smoking may be permitted.

(5) “Enclosed indoor workplace” means a workplace that is predominantly or totally bounded on all sides and above by physical barriers.

(a) Except as provided in paragraph (b), the term does not include a workplace that does not have physical barriers of any kind from above, a workplace that is totally bounded from above but of which at least 25 percent of contiguous surface area of the sides is without a physical barrier of any kind separating the workplace from the exterior of the building within which the workplace is located, or a workplace that is bounded on all sides and above by physical barriers consisting of no more than 50 percent of the total bounded surface area of the workplace.

(b) The term does not apply to a workplace in a restaurant that is bounded on all sides and above by physical barriers consisting of no more than 25 percent of the total bounded surface area of the workplace, provided that if such a workplace is totally or predominantly bounded from above it must use a ventilation system to significantly reduce the accumulation of second-hand tobacco smoke.

(6) “Essential services” means those services that are essential to the maintenance of any enclosed indoor room, regardless of whether the room

is a workplace, including, but not limited to, janitorial services, repairs, or renovations.

(7) “Government building” means a building or portion of a building owned by or leased to the state or a political subdivision of the state and used for governmental purposes.

(8) “Physical barrier” includes an uncovered opening, a screened or otherwise partially covered opening, or an open or closed window, jalouse, or door.

(9)(1) “Public place” means the following enclosed, indoor areas used by the general public:

- (a) Government buildings;
- (b) Public means of mass transportation and their associated terminals not subject to federal smoking regulation;
- (c) Elevators;
- (d) Hospitals;
- (e) Nursing homes;
- (f) Educational facilities;
- (g) Public school buses;
- (h) Libraries;
- (i) Courtrooms;
- (j) Jury waiting and deliberation rooms;
- (k) Museums;
- (l) Theaters;
- (m) Auditoriums;
- (n) Arenas;
- (o) Recreational facilities;
- (p) Restaurants;
- (q) Retail stores, ~~except a retail store the primary business of which is the sale of tobacco or tobacco related products;~~
- (r) Grocery stores;
- (s) ~~Buildings that contain an enclosed indoor workplace~~ Places of employment;
- (t) Health care facilities;
- (u) Day care centers; and
- (v) Common areas of retirement homes and condominiums.

~~(2) “Government building” means any building or any portion of any building owned by or leased to the state or any political subdivision thereof and used for governmental purposes.~~

(10)(3) “Public meeting” means all meetings open to the public, including meetings of homeowner, condominium, or renter or tenant associations unless such meetings are held in a private residence.

(11) “Second-hand smoke” means smoke emitted from lighted, smoldering, or burning tobacco when the smoker is not inhaling; smoke emitted at the mouthpiece during puff drawing; and smoke exhaled by the smoker.

(12)(4) “Smoking” means inhaling, exhaling, burning, carrying, or possessing a lighted tobacco product, including cigarettes, cigars, pipe tobacco possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

~~(5) “Smoking area” means any designated area meeting the requirements of ss. 386.205 and 386.206.~~

(13) “Work” means performing an employment or employment-type service for, or at the request of, another person or a public or private entity, regardless of whether the employment or employment-type service is performed for compensation or on a full-time or part-time basis, whether legally or not. The term includes employment or employment-type service performed by an employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant, volunteer, or similar person. The term does not include noncommercial activities performed by members of a membership organization.

(14) “Workplace” means a room where one or more persons perform work. This section applies to all such workplaces without regard to whether work is occurring at any given time. The term does not include any facility owned or leased by and used exclusively for noncommercial activities performed by the members and guests of a membership organization, including social gatherings, meetings, dining, and dances, if no person or persons are engaged in work as defined in subsection (13). Each facility in which tobacco smoking is permitted during the activities of a membership organization must comply with the signage requirements in s. 386.206.

(15) “Membership organization” means a charitable, nonprofit, or veterans’ organization that holds a current exemption under s. 501(c)(3), s. 501(c)(4), s. 501(c)(7), s. 501(c)(8), s. 501(c)(10), s. 501(c)(19), or s. 501(d) of the Internal Revenue Code.

~~(6) “Common area” means any hallway, corridor, lobby, aisle, water fountain area, restroom, stairwell, entryway, or conference room in any public place.~~

~~(7) “Department” means the Department of Health.~~

~~(8) “Division” means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.~~

Section 4. Section 386.204, Florida Statutes, is amended to read:

386.204 Prohibition.—

(1) *ENCLOSED INDOOR WORKPLACES.*—A person may not smoke in an enclosed indoor workplace, except as otherwise provided in s. 386.2045.

(2) *PUBLIC PLACES.*—A person may not smoke in a public place or at a public meeting except as provided in this part in designated smoking areas. These prohibitions do not apply in cases in which an entire room or hall is used for a private function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the room or hall.

(3) *OTHER PROHIBITED AREAS.*—A person may not smoke within 10 feet of the entryway to a building that contains an enclosed indoor workplace or within 10 feet of intake equipment for a heating, ventilating, or air conditioning system (HVAC system) for a building that contains an enclosed indoor workplace. An outdoor entryway to a public transportation facility, including, but not limited to, railroad stations, bus stations, ship ports, ferry terminals, roadside welcome stations, highway service plazas, airports served by regular passenger service, and highway rest stations is exempt from the prohibition in this subsection.

Section 5. Section 386.2045, Florida Statutes, is created to read:

386.2045 *Enclosed indoor workplaces; specific exceptions.*—Notwithstanding s. 386.204(1), tobacco smoking may be permitted in each of the following places:

(1) *PRIVATE RESIDENCE.*—A private residence whenever it is not being used commercially to provide child care, adult care, or health care, or any combination thereof.

(2) *RETAIL TOBACCO SHOP.*—Any enclosed indoor workplace dedicated to or predominantly for the retail sale of tobacco, tobacco products, and accessories for such products, in which the sale of other products or services is merely incidental. Any enclosed indoor workplace of a business that manufactures, imports, or distributes tobacco products or of a tobacco leaf dealer is a business dedicated to or predominantly for the retail sale of tobacco and tobacco products when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing

a tobacco product for the eventual retail sale of such tobacco or tobacco product, tobacco is heated, burned, or smoked or a lighted tobacco product is tested.

(3) **DESIGNATED SMOKING GUEST ROOM.**—A designated smoking guest room at a public lodging establishment.

(4) **STAND-ALONE BAR.**—Any place of business that during all times of operation is devoted predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating liquors, or any combination thereof, for consumption on the licensed premises; in which the serving of food, if any, is merely incidental to the consumption of any such beverage; and the licensed premises is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including any business for which the sale of food or any other product or service is more than an incidental source of gross revenue. A business must not derive more than 18 percent of its gross revenue from the sale of food.

(5) **SMOKING-CESSATION PROGRAM, MEDICAL RESEARCH, OR SCIENTIFIC RESEARCH.**—Any enclosed indoor workplace or public place, to the extent that tobacco smoking is an integral part of a smoking-cessation program, medical research, or scientific research. Each room in which tobacco smoking is permitted must comply with the signage requirements in s. 386.206.

(6) **ENTERTAINMENT INDUSTRY.**—Any enclosed indoor workplace or public place, to the extent that tobacco smoking is an part of a theatrical, commercial advertising, music video, television, or motion picture performance. Each room in which tobacco smoking is permitted as part of a performance must comply with the signage requirements in s. 386.206.

Section 6. Section 386.205, Florida Statutes, is amended to read:

386.205 Designation of smoking rooms areas.—

(1) A smoking room areas may be designated by the person in charge of an airport in-transit lounge under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland Security a public place. A smoking room may be designated in an airport in-transit lounge under the authority and control of the Bureau of Customs and Border Protection of the United States Department of Homeland Security. A smoking room may not be designated in an elevator, restroom, or any common area as defined in s. 386.203. Each designated smoking room must conform to the following requirements:

(a) Work, other than essential services defined in s. 386.203, must not be performed in the room at any given time.

(b) Tobacco smoking must not be permitted in the room while any essential services are being performed in the room.

(c) Each smoking room must be enclosed by physical barriers that are impenetrable by second-hand tobacco smoke and prevent the escape of second-hand tobacco smoke into a common area or an enclosed indoor workplace.

(d) Each designated smoking room must exhaust tobacco smoke directly to the outside and away from air intake ducts, and be maintained under negative pressure, with respect to surrounding spaces, sufficient to contain tobacco smoke within the designated room.

(e) Each smoking room must comply with the signage requirements in s. 386.206. If a smoking area is designated, existing physical barriers and ventilation systems shall be used to minimize smoke in adjacent nonsmoking areas. This provision shall not be construed to require fixed structural or other physical modifications in providing these areas or to require operation of any existing heating, ventilating, and air-conditioning system (HVAC system) in any manner which decreases its energy efficiency or increases its electrical demand, or both, nor shall this provision be construed to require installation of new or additional HVAC systems.

(2)(a) A smoking area may not be designated in an elevator, school bus, public means of mass transportation subject only to state smoking regulation, restroom, hospital, doctor's or dentist's waiting room, jury, deliberation room, county health department, day-care center, school or

other educational facility, or any common area as defined in s. 386.203. However, a patient's room in a hospital, nursing home, or other health care facility may be designated as a smoking area if such designation is ordered by the attending physician and agreed to by all patients assigned to that room.

(b) Notwithstanding anything in this part to the contrary, no more than one-half of the rooms in any health care facility may be designated as smoking areas.

(3) In a workplace where there are smokers and nonsmokers, employers shall develop, implement, and post a policy regarding designation of smoking and nonsmoking areas. Such a policy shall take into consideration the proportion of smokers and nonsmokers. Employers who make reasonable efforts to develop, implement, and post such a policy shall be deemed in compliance. An entire area may be designated as a smoking area if all workers routinely assigned to work in that area at the same time agree. With respect to the square footage in any public place as described in subsection (4), this square footage shall not include private office work space which is not a common area as defined in s. 386.203(6) and which is ordinarily inaccessible to the public.

(4)(a) No more than one-half of the total square footage in any public place within a single enclosed indoor area used for a common purpose shall be reserved and designated as a smoking area.

(b) The square footage limitation set forth in paragraph (a) shall not apply to any restaurant subject to this part. With respect to such restaurants:

1. No more than 50 percent of the seats existing in a restaurant's dining room at any time shall be located in an area designated as a smoking area.

2. Effective October 1, 2001, no more than 35 percent of the seats existing in a restaurant's dining room at any time shall be located in an area designated as a smoking area.

(3)(5) A smoking room area may not contain common areas that which are expected to be used by the public.

(4)(6) Each state agency may adopt rules for administering this section which take into consideration the provisions of this part.

Section 7. Section 386.206, Florida Statutes, is amended to read:

386.206 Posting of signs.—The person in charge of a public place shall conspicuously post, or cause to be posted, in any public place area designated as a smoking area signs stating that smoking is not permitted in the public place such area. Each sign posted under pursuant to this section must shall have letters of reasonable size which can be easily read. The color, design, and precise place of posting of these such signs shall be left to the discretion of the person in charge of the premises. In order to increase public awareness, the person in charge of a public place may, at his or her discretion, also post "NO SMOKING EXCEPT IN DESIGNATED AREAS" signs as appropriate.

Section 8. Section 386.207, Florida Statutes, is amended to read:

386.207 Administration; enforcement; civil penalties; exceptions exemptions.—

(1) The department and the Department of Business and Professional Regulation or the division shall enforce this part ss. 386.205 and 386.206 and to implement such enforcement shall adopt, in consultation with the Department of Agriculture and Consumer Services and the State Fire Marshal, rules specifying procedures to be followed by enforcement personnel in investigating complaints and notifying alleged violators, rules defining types of cases for which exceptions exemptions may be granted, and rules specifying procedures by which appeals may be taken by aggrieved parties.

(2) Public agencies responsible for the management and maintenance of government buildings shall report observed violations to the department and the Department of Business and Professional Regulation or division. The State Fire Marshal shall report to the department and the Department of Business and Professional Regulation or division observed violations of this part ss. 386.205 and 386.206 found during its periodic inspections conducted under pursuant to its regulatory authority. The department and the Department of Business and Professional

~~Regulation or the division~~, upon notification of observed violations of ~~this part ss. 386.205 and 386.206~~, shall issue to the proprietor or other person in charge of such public place or enclosed indoor workplace a notice to comply with ~~this part ss. 386.205 and 386.206~~. If ~~the such~~ person fails to comply within 30 days after receipt of ~~the such~~ notice, the department and the Department of Business and Professional Regulation ~~or the division~~ shall assess a civil penalty against the person of ~~not less than \$500 and him or her not to exceed \$1,000~~ \$100 for the first violation and ~~not less than \$1000 and not to exceed \$2,500~~ \$500 for each subsequent violation. The imposition of ~~the such~~ fine ~~must shall~~ be in accordance with the provisions of chapter 120. If a person refuses to comply with ~~this part ss. 386.205 and 386.206~~, after having been assessed such penalty, the department and the Department of Business and Professional Regulation ~~or the division~~ may file a complaint in the circuit court of the county in which ~~the such~~ public place or enclosed indoor workplace is located to require compliance.

(3) ~~A person may request an exemption from ss. 386.205 and 386.206 by applying to the department or the division. The department or the division may grant exemptions on a case-by-case basis where it determines that substantial good faith efforts have been made to comply or that emergency or extraordinary circumstances exist.~~

(3)(4) All fine moneys collected pursuant to this section shall be used by the department for children's medical services programs pursuant to the provisions of part I of chapter 391.

Section 9. Section 386.208, Florida Statutes, is amended to read:

386.208 Penalties.—Any person who violates s. 386.204 commits a noncriminal violation as ~~defined provided for~~ in s. 775.08(3), punishable by a fine of ~~not less than \$500 and not more than \$1,000~~ \$100 for the first violation and ~~not less than \$1000 and not more than \$2,500~~ \$500 for each subsequent violation. Jurisdiction shall be with the appropriate county court.

Section 10. Section 386.209, Florida Statutes, is reenacted to read:

386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject.

Section 11. Section 386.211, Florida Statutes, is amended to read:

386.211 Public announcements in mass transportation terminals.—Announcements about the Florida Clean Indoor Air Act shall be made regularly over public address systems in terminals of public transportation carriers located in metropolitan statistical areas with populations over 230,000 according to the latest census. These announcements shall be made at least every 30 minutes and shall be made in appropriate languages. Each announcement ~~must shall~~ include a statement to the effect that Florida is a clean indoor air state and that smoking is ~~not allowed except as provided in this part only in designated areas~~.

Section 12. Section 386.212, Florida Statutes, is amended to read:

386.212 Smoking prohibited near school property; penalty.—

(1) It is unlawful for any person under 18 years of age to smoke tobacco in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This section ~~does shall~~ not apply to any person occupying a moving vehicle or within a private residence.

(2) A law enforcement officer may issue a citation in such form as prescribed by a county or municipality to any person violating the provisions of this section. Any such citation must contain:

- (a) The date and time of issuance.
- (b) The name and address of the person cited.
- (c) The date and time the civil infraction was committed.
- (d) The statute violated.
- (e) The facts constituting the violation.
- (f) The name and authority of the law enforcement officer.

(g) The procedure for the person to follow to pay the civil penalty, to contest the citation, or to appear in court.

(h) The applicable civil penalty if the person elects not to contest the citation.

(i) The applicable civil penalty if the person elects to contest the citation.

(3) Any person issued a citation pursuant to this section shall be deemed to be charged with a civil infraction punishable by a maximum civil penalty not to exceed \$25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco "alternative to suspension" program.

(4) Any person who fails to comply with the directions on the citation shall be deemed to waive his or her right to contest the citation and an order to show cause may be issued by the court.

Section 13. Section 386.2125, Florida Statutes, is created to read:

386.2125 Rulemaking.—The department shall, in consultation with the State Fire Marshal, the Department of Agriculture and Consumer Services, and the Department of Business and Professional Regulation, have the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part.

Section 14. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 15. This act shall take effect July 1, 2003.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Florida Clean Indoor Air Act; implementing s. 20, Art. X of the State Constitution; reenacting s. 386.201, F.S., relating to a short title; amending s. 386.202, F.S.; providing legislative intent and findings; amending s. 386.203, F.S.; providing definitions; amending s. 386.204, F.S.; prohibiting smoking in certain places; requiring the posting of signs; creating s. 386.2045, F.S.; establishing specific exceptions where smoking is permitted; amending s. 386.205, F.S.; providing for designated smoking rooms; providing certain exceptions; requiring state agencies to adopt rules; amending s. 386.206, F.S.; providing requirements for the posting of signs in rooms designated as smoking rooms; amending s. 386.207, F.S.; providing for enforcement of the act by the Department of Business and Professional Regulation and the Department of Health; providing penalties; providing for the use of moneys collected as fines under the act; amending s. 386.208, F.S.; providing additional penalties; reenacting s. 386.209, F.S., relating to preemption by the state of the regulation of smoking; amending s. 386.211, F.S.; providing for announcements at certain facilities; amending s. 386.212, F.S.; prohibiting smoking near school property; creating s. 386.2125, F.S.; requiring the Department of Health to adopt rules; providing for severability; providing an effective date.

MOTION

On motion by Senator Diaz de la Portilla, the rules were waived to allow the following amendment to be considered:

Senators Klein, Campbell and Diaz de la Portilla offered the following amendment to **Amendment 1** which was moved by Senator Diaz de la Portilla and adopted:

Amendment 1A (721318)—On page 8, line 20, delete "13" and insert: 12

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 1757** as amended was placed on the calendar of Bills on Third Reading.

RECESS

The President declared the Senate in recess at 12:10 p.m. to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:53 p.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

By direction of the President, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

Consideration of **CS for CS for SB 1492, HB 1051 and HB 739** was deferred.

CS for CS for SB's 1852, 1628 and 2344—A bill to be entitled An act relating to determination of resident status for tuition purposes; amending s. 1009.21, F.S.; classifying specified students as residents for tuition purposes; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Diaz de la Portilla, **CS for CS for SB's 1852, 1628 and 2344** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peadar
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Lawson

CS for SB 654—A bill to be entitled An act relating to regulation of telecommunications companies; providing a popular name; amending s. 364.01, F.S.; providing legislative finding that provision of unregulated voice-over-internet protocol is in the public interest; amending s. 364.02, F.S.; changing the term “alternative local exchange telecommunications company” to “competitive local exchange telecommunications company”; defining the term “intrastate interexchange telecommunications company”; limiting the definition of “service”; amending s. 364.025, F.S.; conforming terminology; extending the time period for mandatory provision of basic local exchange telecommunications services within the territory of a local exchange telecommunications company; extending the transitional time period for the Public Service Commission’s providing an interim mechanism for maintaining universal service objectives; provid-

ing authority for the Public Service Commission to change the mechanism upon petition during such period; delaying requirement that the Legislature establish a permanent mechanism; delaying date on which competitive local exchange telecommunications company may petition the Public Service Commission to become a universal service provider and carrier of last resort; amending s. 365.0361, F.S.; providing exclusivity for certain regulations; amending s. 364.051, F.S.; conforming terminology; providing circumstances under which certain telecommunications companies may elect alternative regulations; providing an exception; prohibiting an increase in certain regulations on competitive local exchange telecommunications companies; amending s. 364.052, F.S.; conforming terminology; amending s. 364.058, F.S.; providing for an expedited process to facilitate quick resolution of disputes between telecommunications companies; providing rulemaking authority; creating s. 364.059, F.S.; providing procedures for staying election of local exchange telecommunications companies to be subject to alternative regulations; requiring the Public Service Commission to provide benchmarks and criteria for granting stays; providing rulemaking authority; amending s. 364.10, F.S.; requiring certain local exchange telecommunications companies to provide Lifeline services to certain persons; providing for eligibility determinations by the Public Counsel for receipt of such services; prohibiting rate increases for basic local telecommunications services provided to such eligible persons; requiring distribution of certain materials; requiring annual reports; amending ss. 364.16, 364.161, and 364.162, F.S.; conforming terminology; amending s. 364.163, F.S.; deleting obsolete language; changing period in which intrastate access rates are capped; removing limitations on certain rate increases; eliminating certain fees; providing presumption of validity for certain tariff changes made by intrastate interexchange telecommunications companies; creating s. 364.164, F.S.; authorizing local exchange telecommunications companies to petition the Public Service Commission for reduction of intrastate network access rates under certain circumstances; requiring revenue neutrality; providing criteria for the commission to consider; amending s. 364.337, F.S.; conforming terminology; amending s. 364.3376, F.S.; eliminating the requirement that intrastate interexchange telecommunications companies obtain a certificate of public convenience prior to providing operator services; amending ss. 364.502 and 365.172, F.S.; conforming terminology; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and 489.103, F.S.; correcting cross-references to s. 364.02, F.S.; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Haridopolos, **CS for SB 654** as amended was passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Diaz de la Portilla	Posey
Alexander	Dockery	Pruitt
Aronberg	Garcia	Sebesta
Atwater	Haridopolos	Siplin
Bennett	Hill	Smith
Bullard	Jones	Villalobos
Campbell	Klein	Webster
Constantine	Margolis	Wilson
Dawson	Peadar	Wise

Nays—12

Argenziano	Fasano	Lynn
Carlton	Geller	Miller
Cowin	Lawson	Saunders
Crist	Lee	Wasserman Schultz

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **CS for SB 1742** was withdrawn from the Committees on Appropriations Subcommittee on Transportation and Economic Development; and Appropriations; and by two-thirds vote placed on the Special Order Calendar; **CS for HB 597** was withdrawn from the Committee on Rules and Calendar; and by two-thirds vote placed on the Local Bill Calendar; **SB 1026, SB 1028, CS for CS for SB 280 and CS for SB 284** were withdrawn from the Committee on Rules and Calendar; and by two-thirds vote placed on the Special Order Calendar; by two-thirds vote **CS for SB 126** was placed on the Special Order Calendar; and **CS for SB 1414** was withdrawn from the

Committees on Appropriations Subcommittee on Education; Appropriations; and Rules and Calendar.

BILLS ON THIRD READING

HB 1593—A bill to be entitled An act relating to a public records exemption for information regarding foster parent applicants and licensed foster parents; amending s. 409.175, F.S.; expanding the exemption to include foster parent applicants and medical records of licensed foster parents and foster parent applicants; narrowing the exemption to remove information contained in neighbor references; making exempt the name, address, and telephone number of persons providing character or neighbor references; providing for expiration and retroactive application of the exemptions; clarifying language and making editorial changes; providing for future review and repeal of the exemptions; providing a statement of public necessity; providing an effective date.

—was read the third time by title.

On motion by Senator Lynn, **HB 1593** was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 1072—A bill to be entitled An act relating to identity theft and Internet fraud prevention, investigation, and prosecution; amending s. 817.568, F.S.; expanding the definition of personal identification information; revising the elements of the offense of criminal use of personal identification information in which such use results in an unlawful benefit, injury, or fraud; providing for mandatory minimum terms of imprisonment for certain acts of criminal use of personal identification information; amending s. 934.23, F.S.; providing a definition; clarifying that Florida judges with jurisdiction over specific crimes have authority to issue search warrants for electronic evidence relating thereto, regardless of where the electronic evidence is situated; creating s. 92.605, F.S.; providing definitions; providing for self-authentication for out-of-state business records under certain circumstances with notice to opponent; providing for procedures; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Crist, **CS for CS for SB 1072** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Clary	Geller
Alexander	Constantine	Haridopolos
Argenziano	Cowin	Hill
Aronberg	Crist	Jones
Atwater	Dawson	Klein
Bennett	Diaz de la Portilla	Lawson
Bullard	Dockery	Lee
Campbell	Fasano	Lynn
Carlton	Garcia	Margolis

Miller
Peaden
Posey
Pruitt
Saunders
Sebesta
Siplin
Smith
Villalobos

Wasserman Schultz
Webster
Wilson
Wise

Nays—None

CS for CS for SB 1556—A bill to be entitled An act relating to independent living transition services; amending s. 409.1451, F.S.; abolishing the Independent Living Services Transition Workgroup; deleting the report required by the Independent Living Services Transition Workgroup; establishing the Independent Living Services Workgroup; providing for the activities of the Independent Living Services Workgroup; providing for the Independent Living Services Workgroup to report to the Senate and the House of Representatives; providing that property acquired on behalf of a client receiving independent living transition services is the property of the client; providing that the rules are to balance normalcy and safety for the youth; providing an effective date.

—was read the third time by title.

On motion by Senator Lynn, **CS for CS for SB 1556** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 1580—A bill to be entitled An act relating to consumer protection; creating ss. 501.165, 501.166, F.S.; prohibiting the use of deception to obtain certain personal information for commercial solicitation purposes; prohibiting the sale or disclosure of personal customer information by persons in bankruptcy; providing an exception; amending s. 501.2075, F.S.; providing an exception to a civil penalty; creating s. 501.2076, F.S.; prohibiting falsely representing oneself as being affiliated with a law enforcement or firefighting agency or public utility; providing a penalty; providing that a violation of s. 817.568, F.S., is an unfair or deceptive act or practice or unfair method of competition in violation of part II of ch. 501, F.S.; providing penalties; amending ss. 501.23 and 501.24, F.S.; changing obsolete dates; providing an effective date.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Aronberg, the rules were waived to allow the following amendment to be considered:

Senator Aronberg moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (211140)—On page 3, lines 17-21, delete those lines and insert: *Commission, any person organized or incorporated under the laws of Florida who files for bankruptcy or who is insolvent, including any successor, assignee, trustee, receiver, or representative of such person, inclusive of those appointed by any court, shall not sell or otherwise transfer personal customer information to a third party that is*

protected from disclosure by contract or published privacy policy, unless the person obtains the customer's affirmative consent to waive such privacy policy or contract.

On motion by Senator Aronberg, **CS for CS for SB 1580** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 1754—A bill to be entitled An act relating to soil and water conservation; amending s. 582.06, F.S.; increasing membership of the Soil and Water Conservation Council; specifying qualifications for members; amending ss. 582.10 and 582.30, F.S.; revising provisions relating to the creation and discontinuance of soil and water conservation districts; authorizing the Commissioner of Agriculture to dissolve or discontinue a district; providing an effective date.

—was read the third time by title.

On motion by Senator Argenziano, **CS for SB 1754** was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Margolis
Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise

Nays—None

Consideration of **CS for CS for SB 2070** was deferred.

SB 1638—A bill to be entitled An act relating to child support; amending s. 61.046, F.S.; redefining the term “support order” for purposes of ch. 61, F.S., to include an order of an administrative agency; amending s. 61.13, F.S.; deleting the requirement that a child support order include the minor's social security number; amending s. 61.181, F.S.; requiring the clerk of the court to establish an account for interstate cases; providing for the continuation of a fee; amending s. 120.80, F.S.; providing for the location of an administrative hearing; amending ss. 382.013 and 382.016, F.S.; permitting voluntary acknowledgments of paternity which are witnessed; amending s. 409.2558, F.S.; providing for a notice to the noncustodial parent in applying an undistributable support collection to another support order; amending s. 409.2561, F.S.; providing for the Department of Revenue to establish the obligation of support;

amending s. 409.2563, F.S.; providing for the noncustodial parent to request that the Department of Revenue proceed in circuit court to determine the support obligation; revising the requirements under which a noncustodial parent may petition the circuit court to determine the support obligation; providing that the Department of Revenue is a party to court action only with respect to issues of support; amending s. 409.25656, F.S.; providing for the recovery of fees in liquidating securities for the support owed; amending s. 409.257, F.S.; permitting the use of any means of service of process under ch. 48, F.S.; amending s. 409.2572, F.S.; revising the definition of noncooperation or failure to cooperate as applied to an applicant for or a recipient of public assistance; amending s. 409.259, F.S.; revising the manner of reimbursement to the clerk of the court for court filings in Title IV-D cases; amending s. 742.10, F.S.; permitting voluntary acknowledgments of paternity which are witnessed; providing effective dates.

—as amended April 29 was read the third time by title.

On motion by Senator Lynn, **SB 1638** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 2172—A bill to be entitled An act relating to sexual offenders; amending s. 794.0115, F.S.; providing a short title; defining a dangerous sexual felony offender; providing mandatory sentencing for such offenders; providing an effective date.

—was read the third time by title.

On motion by Senator Cowin, **CS for CS for SB 2172** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 1822—A bill to be entitled An act relating to adult protective services; amending s. 415.1045, F.S.; requiring the Department of Children and Family Services to enter into certain working agreements with local law enforcement agencies; requiring the Office of Program Policy Analysis and Government Accountability to review and report to

the Legislature; amending s. 415.1102, F.S.; defining the term “multidisciplinary adult protection team”; providing for composition of such teams; requiring the department to report to the Legislature on the status of compliance with certain recommendations relating to the Adult Services Program and to analyze and provide a plan for the implementation of multidisciplinary adult protection teams; creating the Guardianship Task Force within the department; providing purpose; providing for staff, a chairperson, and membership of the task force; providing for organizations that appoint members to pay their expenses; providing duties of the task force; requiring a preliminary and a final report to the Governor and the Legislature; allowing the appointment of auxiliary members; providing a term of service; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Margolis, **CS for SB 1822** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 2518—A bill to be entitled An act relating to insurance; amending s. 624.310, F.S.; revising definitions; conforming provisions to a revised definition; conforming provisions to certain governmental reorganization; prohibiting affiliated parties from certain activities constituting a conflict of interest; providing exceptions; authorizing the Office of Insurance Regulation to require certain disclosures of personal interest; specifying certain restrictions governing affiliated party conduct; amending s. 624.316, F.S.; deleting provisions providing for an examination of an insurer pursuant to an agreement between the Department of Financial Services and the insurer; requiring such examinations according to rules of the department; amending s. 624.4095, F.S.; conforming provisions to certain governmental reorganization; providing for calculating certain surplus for certain insurers; amending s. 624.610, F.S.; conforming provisions to certain governmental reorganization; revising requirements for securities of a trust fund for a single assuming insurer; amending ss. 628.461 and 628.4615, F.S.; specifying additional nonapplication of acquisition of controlling stock provisions to changes of ownership of a domestic insurer or specialty insurer, respectively, under certain circumstances; creating ss. 634.042, 627.8401, 634.3076, 634.4062, and 651.029, F.S.; prohibiting certain investments by motor vehicle service agreement companies, premium finance companies, home warranty associations, service warranty associations, and continuing care providers, respectively; amending s. 440.20, F.S.; correcting a cross-reference; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Webster, **CS for SB 2518** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Campbell	Diaz de la Portilla
Alexander	Carlton	Dockery
Argenziano	Clary	Fasano
Aronberg	Constantine	Garcia
Atwater	Cowin	Geller
Bennett	Crist	Haridopolos
Bullard	Dawson	Hill

Jones	Peadar
Klein	Posey
Lawson	Pruitt
Lee	Saunders
Lynn	Sebesta
Margolis	Siplin
Miller	Smith

Nays—None

Villalobos
Wasserman Schultz
Webster
Wilson
Wise

CS for SB 2462—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; amending s. 527.01, F.S.; redefining the term “qualifier” for purposes of ch. 527, F.S., relating to sale of liquefied petroleum gas; redefining the term “category I liquefied petroleum gas dealer”; redefining the term “category II liquefied petroleum gas dispenser”; redefining the term “LP gas installer”; redefining the term “specialty installer”; defining the term “category V liquefied petroleum gases dealer for industrial uses only”; amending s. 527.02, F.S.; providing for licensure of category V liquefied petroleum gases dealers for industrial uses only; providing license fees for such dealers; creating s. 527.0201, F.S.; providing for the examination of such dealers; revising criteria for determining who may make application for examination for competency; providing that a person may not act as a qualifier for more than one licensed location; providing an additional prerequisite for certification as a master qualifier; clarifying procedures in the event of specified vacancies in qualifier and master qualifier positions; clarifying provisions relating to suspension of a license if a business organization no longer possesses a duly designated qualifier; providing procedures relating to category I liquefied petroleum gas dealers or LP gas installers who no longer possess a master qualifier but employ a category I liquefied petroleum gas dealer or LP gas installer qualifier; providing that the department may deny, refuse to renew, suspend, or revoke a qualifier card or master qualifier certificate for specified causes; amending s. 527.06, F.S.; conforming a cross-reference; amending s. 527.065, F.S.; revising conditions under which liquefied petroleum gas licensees must notify the department of liquefied petroleum gas-related accidents involving a customer account; amending s. 527.11, F.S.; revising a prerequisite to obtaining a liquefied petroleum gas license; amending s. 527.13, F.S.; authorizing the department to impose administrative penalties and suspend or revoke a qualification for violation of ch. 527, F.S., rules adopted pursuant thereto, or a cease and desist order; increasing the period of time in which licensees may pay penalties to the department; authorizing the department to issue a warning letter to licenseholders, master qualifiers, qualifiers, or others in lieu of an administrative or civil penalty for first violations; amending s. 527.22, F.S.; revising terms of membership of the Propane Gas Education, Safety, and Research Council; amending s. 559.904, F.S.; revising provisions relating to applications, renewal applications, registration, and registration fees with respect to motor vehicle repair shops; amending s. 559.929, F.S.; eliminating a condition under which the department may waive security requirements with respect to registration as a seller of travel; amending s. 501.143, F.S.; providing limitations on contracts for ballroom dance studio services, the renewal of such contracts, and oral or written representations with respect thereto; providing penalties, remedies, and enforcement; amending s. 507.03, F.S.; revising registration requirements for moving services; amending s. 507.04, F.S.; revising requirements with respect to insurance coverage for moving services; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Garcia, **CS for SB 2462** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Clary	Geller
Alexander	Constantine	Haridopolos
Argenziano	Cowin	Hill
Aronberg	Crist	Jones
Atwater	Dawson	Klein
Bennett	Diaz de la Portilla	Lawson
Bullard	Dockery	Lee
Campbell	Fasano	Lynn
Carlton	Garcia	Margolis

Miller	Sebesta	Wasserman Schultz
Peaden	Siplin	Webster
Posey	Smith	Wilson
Pruitt	Villalobos	Wise
Saunders		

Nays—None

CS for SB 2334—A bill to be entitled An act relating to municipal police and firefighter pensions; amending s. 175.351, F.S.; authorizing certain municipalities to provide extra benefits to firefighter pension plans prior to the receipt of additional premium tax revenues; providing a procedure; amending s. 185.35, F.S.; authorizing certain municipalities to provide extra benefits in police officer pension plans under certain circumstances; providing a procedure; providing an effective date.

—was read the third time by title.

On motion by Senator Lynn, **CS for SB 2334** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 2366—A bill to be entitled An act relating to aggravated child abuse; amending s. 827.03, F.S.; defining the term “maliciously” for purposes of the offense of aggravated child abuse; providing an effective date.

—was read the third time by title.

On motion by Senator Fasano, **CS for SB 2366** was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Argenziano

HB 1203—A bill to be entitled An act relating to Department of Corrections personnel; amending s. 110.205, F.S.; deleting from career

service exemption provisions obsolete language relating to the Correctional Education Program; classifying colonels and majors within the Department of Corrections as Selected Exempt Service employees; providing an effective date.

—was read the third time by title.

On motion by Senator Cowin, **HB 1203** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 2122—A bill to be entitled An act relating to the designation of university buildings and roads; designating the renovated transplant housing unit at the University of Florida’s Shands Hospital as the “Gerold L. Schiebler/Shands Transplant Housing Complex”; designating the new Structures and Materials Research Laboratory for the College of Engineering at the University of Florida as “The Powell Family Structures and Materials Lab”; designating the Track/Soccer Stadium at the University of Florida as the “James G. Pressly Stadium”; designating the Academic Advising Center at the University of Florida as “Farrior Hall”; designating the proposed band rehearsal facility at the University of Florida as “Steinbrenner Band Hall”; redesignating North-South Drive on the University of Florida campus as “Gale Lemerand Drive”; designating the Track and Field Center at Florida State University as the “Michael Allen McIntosh Track and Field Center”; designating the Student Life Building, 113 South Wildwood Drive, at Florida State University as the “Reubin O’D. Askew Student Life Center”; designating the proposed entrance pavilion at the John and Mabel Ringling Museum of Art at the Florida State University Ringling Center for Cultural Arts in Sarasota as the “John M. McKay Visitors’ Pavilion”; designating the Education and Administration Building at Florida State University as the “John E. Thrasher Building”; designating the new residence hall complex at Florida State University as “Sherrill Williams Ragans Hall”; designating the School of Business and Industry building at Florida Agricultural and Mechanical University as the “Sybil C. Mobley Business Building”; designating the new allied health building at Florida Agricultural and Mechanical University as the “Margaret W. Lewis/Jacqueline B. Beck Allied Health Building”; designating the architecture building at Florida Agricultural and Mechanical University as the “Walter L. Smith Architecture Building”; designating the Archives Building at Florida Agricultural and Mechanical University as the “Meek/Eaton Southeastern Regional Black Archives Research Center and Museum”; designating the charter elementary school located on the Tampa campus of the University of South Florida as the “Dr. Kiran C. Patel Charter School”; designating the building that houses the University of Central Florida Downtown Center as the “James and Annie Ying Academic Center”; designating the student/community educational facility for health at Florida Gulf Coast University as the “Kleist Health Education Center”; designating the academic facility at Florida Gulf Coast University which will house the Resort and Hospitality Management Program as the “Herbert J. and Margaret S. Sugden Hall”; designating the new nursing building on the Boca Raton campus of Florida Atlantic University as the “Christine E. Lynn Nursing Building”; designating the new library addition on the Boca Raton campus of Florida Atlantic University as the “Herbert and Elaine Gimelstob Building”; designating the new lifelong learning complex on the Jupiter campus of Florida Atlantic University as the “Elinor Bernon Rosenthal Lifelong Learning Complex”; designating the new lifelong learning auditorium on

the Jupiter campus of Florida Atlantic University as the “Tamar and Milton Maltz Center for Learning and the Performing Arts”; designating the Florida Agricultural and Mechanical University Graduate School of Business and Industry as the Sybil C. Mobley Graduate School of Business and Industry; designating the Turfgrass Research Envirotron at the University of Florida as the “Jeff Hayden Turfgrass Research Envirotron at the University of Florida”; authorizing the respective universities to erect suitable markers; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Peaden, **CS for SB 2122** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

HB 533—A bill to be entitled An act relating to county tourism promotion agencies; amending s. 125.01, F.S.; revising powers of the county governing body; authorizing the county to prohibit business entities that are not county tourism promotion agencies from using certain specified designations; amending s. 125.0104, F.S.; revising powers and duties of county tourism promotion agencies; authorizing the use of certain designations by said agencies; providing an effective date.

—was read the third time by title.

On motion by Senator Margolis, **HB 533** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 1784—A bill to be entitled An act relating to public records; exempting from public records requirements information and records reported to the Department of Health under the electronic monitoring system for prescription of controlled substances listed in Schedules II-IV; authorizing certain persons and entities access to patient-identifying information; providing guidelines for the use of such information and penalties for violations; providing for future legislative review and repeal; providing a finding of public necessity; providing a contingent effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Fasano, **CS for SB 1784** as amended was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SJR 1172 and SJR 1672—A joint resolution proposing an amendment to Section 5 of Article XI of the State Constitution relating to the approval of constitutional amendments.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 5 of Article XI of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XI AMENDMENTS

SECTION 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution, initiative petition or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to section 3.

(c) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(d) If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

(e) *A proposed amendment to or revision of this constitution shall not be approved for placement on the ballot unless it is determined by the Florida Supreme Court that the proposed amendment or revision either seeks to alter, amend, or repeal an existing article or amendment to the constitution, addresses a fundamental right of a citizen of this state, or seeks to create, implement, or otherwise change a basic structure of the state government.*

BE IT FURTHER RESOLVED that the following amendment be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE XI, SECTION 5

APPROVAL OF CONSTITUTIONAL AMENDMENTS.—Proposing an amendment to the State Constitution to prohibit the placement of a proposed constitutional amendment or revision on the ballot if it does not alter, amend, or repeal an existing article or amendment to the constitution, address a fundamental right of a citizen of this state, or seek to create, implement, or otherwise change a basic structure of state government, as determined by the Florida Supreme Court.

—was read the third time in full.

On motion by Senator Cowin, **CS for CS for SJR 1172 and SJR 1672** failed to receive the required constitutional three-fifths vote of the membership. The vote was:

Yeas—17

Mr. President	Crist	Pruitt
Alexander	Fasano	Sebesta
Atwater	Haridopolos	Smith
Campbell	Jones	Webster
Constantine	Peaden	Wise
Cowin	Posey	

Nays—21

Argenziano	Dockery	Margolis
Aronberg	Garcia	Miller
Bennett	Geller	Saunders
Bullard	Hill	Siplin
Carlton	Klein	Villalobos
Dawson	Lawson	Wasserman Schultz
Diaz de la Portilla	Lynn	Wilson

CS for CS for SB 478—A bill to be entitled An act relating to actions against law enforcement officers; providing a short title; amending s. 111.065, F.S.; redefining the term “law enforcement officer” for purposes of the payment of costs and attorney’s fees in certain actions commenced against a law enforcement officer; revising circumstances under which the employing agency of a law enforcement officer has the option of paying legal costs and attorney’s fees in an action arising out of the officer’s official duties; requiring that an officer’s employing agency pay legal costs and attorney’s fees under certain circumstances involving an emergency, imminent death or bodily harm, or the pursuit or apprehension of an offender; providing for jurisdiction relating to legal costs and attorney’s fees; providing certain limitations of the amount awarded; providing an effective date.

—was read the third time by title.

On motion by Senator Posey, **CS for CS for SB 478** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

HB 747—A bill to be entitled An act relating to sexual battery time limitations; amending s. 775.15, F.S.; revising language with respect to

time limitations for a prosecution of the crime of sexual battery; providing an effective date.

—was read the third time by title.

On motion by Senator Webster, **HB 747** was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Margolis
Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise

Nays—None

CS for SB 728—A bill to be entitled An act relating to rural land protection; amending s. 201.15, F.S.; providing for the distribution of certain excise taxes on documents to the Rural Lands Program Trust Fund of the Department of Agriculture and Consumer Services; creating s. 215.6195, F.S.; authorizing the issuance of bonds for rural land protection; providing certain conditions; providing for the deposit of proceeds; providing that issuance of such bonds is in the best interests of the state; amending s. 570.207, F.S.; providing uses for funds in the Conservation and Recreation Lands Program Trust Fund; amending s. 570.70, F.S.; providing conclusions of a study by the department; amending s. 570.71, F.S.; authorizing the use of rural land protection bonds to implement provisions relating to conservation and rural land protection easements and agreements; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Dockery, **CS for SB 728** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

SB 730—A bill to be entitled An act relating to trust funds; creating s. 570.209, F.S.; creating the Rural Lands Program Trust Fund within the Department of Agriculture and Consumer Services; providing for sources of funds and purposes; providing for an annual carryforward of funds; providing for future legislative review and termination or re-creation of the trust fund; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Dockery, **SB 730** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for CS for SB 1300—A bill to be entitled An act relating to citrus; amending s. 403.08725, F.S.; redefining the terms “new sources” and “existing sources”; amending permitted emissions limits; providing for the Department of Environmental Protection to develop, by a specified deadline, management practices to prevent or minimize certain pollutants that are not specifically named in this section; postponing the date by which certain actions must be accomplished; providing specific contents of rules adopted by the department; providing additional emissions limits; providing for the expiration of the program created under this section; providing prerequisites to salary adjustments for certain employees of the Department of Citrus; requiring the Department of Citrus to publish an annual travel report; providing requirements for the contents of that report; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Alexander, **CS for CS for SB 1300** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 1776—A bill to be entitled An act relating to the Streamlined Sales and Use Tax Agreement; amending s. 212.02, F.S.; redefining the terms “lease,” “let,” “rental,” “sales price,” and “tangible personal property” and defining the terms “agent,” “seller,” “certified service provider,” “direct mail,” “prewritten computer software,” and “delivery charges” for purposes of sales and use taxes; providing applicability; amending s. 212.05, F.S.; deleting provisions relating to the rental or lease of motor vehicles; providing for determination of the location of the sale or recharge of prepaid calling arrangements; amending s. 212.054, F.S.; providing the time for applying changes in local option tax rates; providing guidelines for determining the situs of certain transactions; providing for notice of a change in a local option sales tax rate; providing for applicability of s. 202.22(2), F.S., relating to determination of local tax situs, for the purpose of providing and maintaining a database of sales and use tax rates for local jurisdictions; amending s. 212.06, F.S.; defining terms; providing general rules for determining the location of transactions involving the retail sale of tangible personal property, digital goods, or services and for the lease or rental of tangible

personal property; requiring certain business purchasers to obtain multiple points of use exemption forms; providing for use of such forms; requiring certain purchasers of direct mail to obtain a direct mail form; providing for the use of such form; amending s. 212.08, F.S., relating to exemptions from the sales and use tax; defining and redefining terms used with respect to the exemption for general groceries; defining and redefining terms used with respect to the exemption for medical products and supplies; revising that exemption; amending s. 212.095, F.S.; revising provisions relating to refunds; creating s. 212.094, F.S.; providing that a purchaser seeking a refund or credit under chapter 212, F.S., must submit a written request for the refund or credit; providing a time period within which the dealer shall respond to the written request; amending s. 212.17, F.S.; prescribing additional guidelines and procedures with respect to dealer credits for taxes paid on worthless accounts; creating s. 213.052, F.S.; providing for notice of state sales or use tax rate changes; creating s. 213.0521, F.S.; providing the effective date for state sales and use tax rate changes; amending s. 213.21, F.S.; providing for amnesty to certain sellers for uncollected or unpaid sales and use taxes; amending s. 213.256, F.S., relating to simplified sales and use tax administration; defining terms; providing that authority to administer the Streamlined Sales and Use Tax Agreement rests with a governing board comprised of representatives of member states; providing for continuing effect of the agreement; providing for annual recertification by member states; creating s. 213.2567, F.S.; providing for the registration of sellers, the certification of a person as a certified service provider, and the certification of a software program as a certified automated system by the governing board under the Streamlined Sales and Use Tax Agreement; amending s. 212.055, F.S.; conforming a cross-reference; repealing s. 212.0596(6), F.S., relating to the exemption from collecting and remitting any local option surtax for certain dealers who make mail order sales; declaring legislative intent; providing for the adoption of emergency rules; providing an effective date.

—was read the third time by title.

On motion by Senator Campbell, **CS for CS for SB 1776** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

Consideration of **CS for CS for SB 1944** was deferred.

CS for CS for SB 2446—A bill to be entitled An act relating to child care; amending s. 402.305, F.S.; revising inservice training requirements for child care personnel; requiring training in early literacy and language development; amending s. 402.312, F.S.; providing grounds for injunctive relief against family day care homes or large family child care homes; providing penalties; amending s. 402.313, F.S.; requiring annual training and an annual health and safety home inspection self-evaluation by family day care home operators; requiring training in early literacy and language development; amending s. 402.3131, F.S.; requiring annual training of operators of large family child care homes; requiring training in early literacy and language development; requiring the Department of Children and Family Services to adopt rules; providing an effective date.

—was read the third time by title.

On motion by Senator Wasserman Schultz, **CS for CS for SB 2446** was passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peadar
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	

Nays—1

Haridopolos

Consideration of **CS for CS for SB 1312** was deferred.

CS for CS for SB 1724—A bill to be entitled An act relating to prompt payment for construction services; amending s. 218.70, F.S.; providing a short title; amending s. 218.72, F.S.; redefining terms used in part VII of ch. 218, F.S.; amending s. 218.735, F.S.; revising provisions relating to timely payment for purchases of construction services; revising deadlines for payment; providing procedures for project closeout and payment of retainage; providing requirements for local government construction retainage; providing that ss. 218.72-218.76, F.S., apply to the payment of any payment request for retainage; creating s. 255.0705, F.S.; providing a short title; amending s. 255.071, F.S.; revising deadlines for the payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects; creating ss. 255.072, 255.073, 255.074, 255.075, 255.076, 255.077, 255.078, F.S.; providing definitions; providing for timely payment for purchases of construction services by a public entity; providing procedures for calculating payment due dates; providing procedures for handling improper payment requests; providing for the resolution of disputes; providing for project closeout and payment of retainage; providing for public construction retainage; providing that ss. 255.072-255.076, F.S., apply to the payment of any payment request for retainage; amending s. 255.05, F.S.; providing requirements for certain notices of nonpayment served by a claimant who is not in privity with the contractor; providing limitations on a claimant's institution of certain actions against a contractor or surety; providing for certain notices to the claimant; providing an effective date.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendment to be considered:

Senator Bennett moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (251488)(with title amendment)—On page 2, line 12, insert:

Section 1. Section 725.06, Florida Statutes, is amended to read:

725.06 Construction contracts; limitation on indemnification; agreements to insure.—

(1) *Except as otherwise provided in paragraphs (a), (b), and (c), any portion of any agreement or contract for or in connection with, or any guarantee of or in connection with, any construction, alteration, repair, or demolition of a building, structure, appurtenance, or appliance, including moving and excavating associated therewith, between an owner of real property and an architect, engineer, general contractor, subcontractor, sub-subcontractor, or materialman or any combination thereof*

wherein any party referred to herein promises to have someone named an additional insured under the party's insurance policy or to indemnify, defend, or hold harmless another person or party the other party to the agreement, contract, or guarantee for liability or for damages to persons or property caused in whole or in part by any act, omission, or default of the person or party being indemnified indemnitee arising from the contract or its performance, shall be void and unenforceable as against public policy. However, this provisions shall not be construed to place limits on indemnity agreements that exist only between a general contractor and the owner of real property as long as unless the contract contains a monetary limitation on the extent of the indemnification that bears a reasonable commercial relationship to the contract and is part of the project specifications or bid documents, if any. Notwithstanding the foregoing, the monetary limitation on the extent of the indemnification provided to the owner of real property by any party in privity of contract with such owner shall not be less than \$1 million per occurrence, unless otherwise agreed by the parties. However, such indemnification shall not include claims of, or damages resulting from, gross negligence or willful, wanton, or intentional misconduct of the indemnitee or its officers, directors, agents, or employees, or for statutory violations or punitive damages except if, and to the extent that the statutory violation or punitive damages are caused by or result from the negligent acts, omissions, or default of the indemnitor or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees.

(a) Indemnification provisions in any such agreements, contracts, or guarantees may not require that the indemnitor indemnify the indemnitee for damages to persons or property caused in whole or in part by any act, omission, or default of a party other than:

1.(a) The indemnitor; or

2.(b) Any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees; or

(c) ~~The indemnitee or its officers, directors, agents, or employees. However, such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the indemnitee or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the indemnitor or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees.~~

(b)(2) A construction contract for a public agency or in connection with a public agency's project may require a party to that contract to indemnify and hold harmless the other party to the contract, their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the indemnifying party and persons employed or utilized by the indemnifying party in the performance of the construction contract.

(c) Any portion of any agreement or contract for or in connection with, or any guarantee of or in connection with, any construction, alteration, repair, or demolition of a building, structure, appurtenance, or appliance, including moving and excavating associated therewith, between an entity regulated by the Florida Public Service Commission and an architect, engineer, general contractor, subcontractor, sub-subcontractor, or materialman or any combination thereof wherein any party referred to herein promises to indemnify or hold harmless the other party to the agreement, contract, or guarantee for liability for damages to persons or property caused in whole or in part by any negligent act, omission, or default of the indemnitee arising from the contract or its performance shall be void and unenforceable unless the contract contains a monetary limitation on the extent of the indemnification which bears a reasonable commercial relationship to the contract and is part of the project specifications or bid documents, if any. Notwithstanding the foregoing, the monetary limitation on the extent of the indemnification provided to the owner of real property by any party in privity of contract with such owner shall not be less than \$1 million per occurrence, unless otherwise agreed by the parties. Indemnification provisions in any such agreements, contracts, or guarantees may not require that the indemnitor indemnify the indemnitee for damages to persons or property caused in whole or in part by any act, omission, or default of a party other than:

1. *The indemnitor;*

2. *Any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees; or*

3. *The indemnitee or its officers, directors, agents, or employees. However, such indemnification shall not include claims of, or damages resulting from, gross negligence or willful, wanton, or intentional misconduct of the indemnitee or its officers, directors, agents, or employees, or for statutory violation or punitive damages except if, and to the extent that, the statutory violation or punitive damages are caused by or result from the acts or omissions of the indemnitor or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees.*

(2) *If, as part of any agreement or contract for or in connection with, or any guarantee of or in connection with, any construction, alteration, repair, or demolition of a building, structure, appurtenance, or appliance, including moving and excavating associated with such activities, between or among an architect, engineer, general contractor, subcontractor, sub-subcontractor, or materialman or any combination of such persons, a policy of insurance extends certain coverage rights to an additional insured for liability arising out of the acts, errors, or omissions of the named insured, such additional insured coverage shall provide liability protection only to the additional insured for the imputed or vicarious liability imposed on the additional insured as a direct consequence of the negligent acts or omissions of the named insured.*

(3) *If a written contract requires a subcontractor, sub-subcontractor, or materialman to provide a policy of insurance or a certificate of insurance to a general contractor or subcontractor, extending specific coverage rights to an additional insured:*

(a) *The general contractor or subcontractor may at any point prior to the date the subcontractor, sub-subcontractor, or materialman commences work or delivers material to the project accept or reject the policy as being nonconforming;*

(b) *If the policy is not rejected, the general contractor or subcontractor shall be deemed to have accepted the policy; and*

(c) *The general contractor or subcontractor may not use the lack of conforming insurance as a reason to reject work already completed by a subcontractor or sub-subcontractor, or material already supplied by the materialman, or withhold payment to the subcontractor, sub-subcontractor, or materialman for work already completed or material already supplied. ~~Except as specifically provided in subsection (2), a construction contract for a public agency or in connection with a public agency's project may not require one party to indemnify, defend, or hold harmless the other party, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding, and any such contract provision is void as against public policy of this state.~~*

(4) This section does not affect any contracts, agreements, or guarantees entered into before the effective date of this section ~~or any renewals thereof.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to construction services; amending s. 725.06, F.S.; providing conditions, limitations, and exceptions for construction contracts that limit indemnification; amending s. 218.70,

On motion by Senator Bennett, **CS for CS for SB 1724** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Bullard	Crist
Alexander	Campbell	Dawson
Argenziano	Carlton	Diaz de la Portilla
Aronberg	Clary	Dockery
Atwater	Constantine	Fasano
Bennett	Cowin	Garcia

Geller	Lynn	Siplin
Haridopolos	Miller	Smith
Hill	Peaden	Villalobos
Jones	Posey	Wasserman Schultz
Klein	Pruitt	Webster
Lawson	Saunders	Wilson
Lee	Sebesta	Wise

Nays—1

Margolis

CS for SB 2388—A bill to be entitled An act relating to the Fish and Wildlife Conservation Commission; amending s. 372.001, F.S.; providing and revising definitions; amending s. 372.0222, F.S.; authorizing the commission to purchase certain promotional items; amending s. 372.07, F.S.; requiring clerks of the court to notify the commission within a specified time period of the disposition of any citation issued under ch. 372, F.S.; amending s. 372.16, F.S.; increasing the license fee for private game preserves and farms; deleting an obsolete reference relating to private game preserves and farms; amending s. 372.57, F.S.; revising provisions specifying fees and requirements for recreational licenses, permits, and authorization numbers; clarifying language relating to recreational vessel licenses; increasing a nonresident hunting license fee; increasing fees for nonresident turkey permits; amending s. 372.6673, F.S.; revising provisions relating to issuance and expiration dates of alligator trapping licenses; amending s. 372.661, F.S.; increasing the private hunting preserve license fee; amending s. 372.87, F.S.; increasing the reptile license fee; amending s. 372.921, F.S.; revising provisions relating to license requirements for the sale or exhibition of wildlife; increasing permit fees; amending s. 372.922, F.S.; increasing the permit fee for personal possession of certain wildlife; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Dockery, **CS for SB 2388** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 1168—A bill to be entitled An act relating to motor vehicles; amending s. 812.16, F.S.; including airbags and airbag assemblies within the definition of the term “major component part” for purposes of provisions prohibiting the operation of a chop shop and authorizing the seizure and forfeiture of parts and vehicles; amending s. 261.03, F.S.; amending the definition of off-highway vehicle; adding a definition; amending s. 316.003, F.S.; providing a common wheelchair is not a motor vehicle; amending s. 316.2074, F.S.; amending the definition of all-terrain vehicle; amending s. 317.0003, F.S.; amending the definition of off-highway vehicle; adding a definition; repealing s. 317.0008(2), F.S., relating to the expedited issuance of duplicate certificates of title for off-highway vehicles; creating s. 317.0014, F.S.; establishing procedures for the issuance of off-highway vehicle titles; creating s. 317.0015, F.S.; providing for the applicability of certain provisions of law to the titling of off-highway vehicles; creating s. 317.0016, F.S.; providing for the expedited issuance of titles for off-highway vehicles; creating s. 317.0017, F.S.; prohibiting specified actions relating to the issuance of titles for off-highway vehicles; providing a penalty; creating s. 317.0018,

F.S.; prohibiting the transfer of an off-highway vehicle without delivery of a certificate of title; prescribing other violations; providing a penalty; amending s. 318.15, F.S.; providing for driver's license reinstatement; providing disposition of fees; amending s. 319.23, F.S.; providing that licensed motor vehicle dealers must notify the Department of Highway Safety and Motor Vehicles of motor vehicles taken in trade; amending s. 319.30, F.S.; revising the definition of major component parts; amending s. 320.055, F.S.; requiring leased vehicles to be registered in the name of the lessee; amending s. 320.06, F.S.; providing the department may not change the design of the registration license plate without legislative approval; amending s. 320.07, F.S.; providing that certain service members are not required to pay fines for an expired mobile home registration or motor vehicle registration; amending s. 320.0706, F.S.; providing for display of license plate on wreckers; amending s. 320.08053, F.S.; revising requirements for establishing a specialty license plate; providing procedures and timeframes; requiring submission of a sample plate; requiring a financial analysis of anticipated revenues and expenditures; requiring submission of prepaid applications; providing for content of prepaid applications; providing for legislative approval; requiring the Department of Highway Safety and Motor Vehicles to issue plates within a specified time period; authorizing the department to retain prepayments to cover certain costs; requiring refund of prepaid applications under certain circumstances; providing for a minimum number of prepaid applications; providing for quarterly reports to the department; providing procedures and requirements for collection of payments for prepaid applications; authorizing the department to audit organizations collecting prepaid applications; amending s. 320.08056, F.S.; revising conditions and procedures for discontinuance of specialty license plates; deleting an exemption from the provisions for discontinuance of specialty license plates; amending s. 320.131, F.S.; providing for the creation of an electronic temporary license plate system; amending s. 320.27, F.S.; revising provisions relating to the suspension or revocation of a motor vehicle dealer license; amending s. 322.051, F.S.; revising provisions relating to the application for an identification card; revising fees; providing that the requirement for a fullface photograph or digital image on an identification card may not be waived under ch. 761, F.S.; amending s. 322.025, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to offer a once-in-a-lifetime opportunity to attend a basic driver improvement course for drivers who meet certain criteria; providing that the department shall deduct points from a driver's record upon proof of completion of the basic driver improvement course; providing that the department shall annotate the driver's record that the improvement course had been accepted and used; amending s. 318.1451, F.S.; conforming provisions to changes made by the act; amending s. 322.08, F.S.; revising the list of documents accepted for proof of identity of applicant for a driver's license; providing for a voluntary contribution to be made when applying for a driver's license; providing for distribution of monies collected from contributions; amending s. 322.12, F.S.; revising provisions relating to the subsequent testing of driving knowledge and skills; amending s. 322.142, F.S.; providing that the requirement for a fullface photograph or digital image on a driver's license may not be waived under ch. 761, F.S.; amending s. 322.17, F.S.; revising provisions relating to the application for a replacement or duplicate driver's license; amending s. 322.18, F.S.; revising the expiration period for driver's licenses issued to specified persons; amending s. 322.19, F.S.; revising requirements relating to name and address changes for driver's licenses; amending s. 322.21, F.S.; providing driver's license reinstatement fees; providing for fee distribution; amending s. 322.212, F.S.; revising provisions for enforcement of specified violations by the Division of Alcoholic Beverages and Tobacco; amending s. 322.251, F.S.; providing a conforming change; amending s. 322.29, F.S.; providing driver's license reinstatement fees; providing for fee distribution; reenacting s. 318.121, F.S., relating to preemption of additional fees, fines, surcharges, and costs to incorporated amendment to s. 318.18(11), F.S., in reference thereto; providing effective dates.

—as amended April 29 was read the third time by title.

On motion by Senator Sebesta, **CS for CS for SB 1168** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Bennett	Constantine
Alexander	Bullard	Cowin
Argenziano	Campbell	Crist
Aronberg	Carlton	Dawson
Atwater	Clary	Diaz de la Portilla

Dockery
Fasano
Garcia
Geller
Haridopolos
Hill
Jones
Klein
Lawson
Nays—None

Lee	Siplin
Lynn	Smith
Margolis	Villalobos
Miller	Wasserman Schultz
Peaden	Webster
Posey	Wilson
Pruitt	Wise
Saunders	
Sebesta	

CS for CS for SB 1434—A bill to be entitled An act relating to public libraries; amending s. 257.17, F.S.; authorizing municipalities to receive operating grants; establishing minimum standards for receipt of funds; removing minimum population requirement for municipalities to be eligible to receive funds; amending s. 257.191, F.S.; revising provisions relating to construction grants; amending s. 257.22, F.S.; permitting eligible political subdivisions to receive warrants; amending s. 257.23, F.S.; requiring certification of annual tax income by a specified date; clarifying authority with regard to applications for grants; repealing s. 257.19, F.S., relating to library construction grants; amending s. 257.261, F.S.; revising provisions relating to confidentiality of public library registration and circulation records to authorize disclosure of information to the parent or guardian of a library patron under age 16, for the purpose of collecting fines or recovering overdue books or other materials; providing an effective date.

—was read the third time by title.

On motion by Senator Garcia, **CS for CS for SB 1434** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

By direction of the President, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2322, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2322—A bill to be entitled An act relating to assistance in obtaining prescription drugs; creating s. 430.83, F.S.; providing a popular name; providing definitions; providing legislative findings and intent; creating the Sunshine for Seniors Program to assist low-income seniors with obtaining prescription drugs from manufacturers' pharmaceutical assistance programs; providing implementation and oversight duties of the Department of Elderly Affairs; providing for community partnerships; providing for contracts; requiring annual evaluation reports on the program; specifying that the program is not an entitlement;

providing an appropriation and authorizing a position; amending s. 409.904, F.S.; postponing the effective date of changes to standards for eligibility for certain optional medical assistance, including coverage under the medically needy program; providing appropriations; providing for retroactive application; providing effective dates.

House Amendment 1 (119969)(with title amendment)—

On page 3, line 10, through page 6, line 9,

remove: all of said lines

and insert: *manufacturers and consumer advocates, develop a uniform application form to be completed by seniors who wish to participate in the Sunshine for Seniors Program.*

(c) *May request proposals from application assistance organizations to assist eligible individuals with obtaining prescription drugs through manufacturers' pharmaceutical assistance programs.*

(d) *Shall train volunteers to help eligible individuals fill out applications for the manufacturers' pharmaceutical assistance programs.*

(e) *Shall train volunteers to determine when applicants may be eligible for other state programs and refer them to the proper entity for eligibility determination for such programs.*

(f) *Shall seek federal funds to help fund the Sunshine for Seniors Program.*

(g) *May seek federal waivers to help fund the Sunshine for Seniors Program.*

(6) **COMMUNITY PARTNERSHIPS.**—*The Department of Elderly Affairs may build private sector and public sector partnerships with corporations, hospitals, physicians, pharmacists, foundations, volunteers, state agencies, community groups, area agencies on aging, and any other entities that will further the intent of this section. These community partnerships may also be used to facilitate other pro bono benefits for eligible individuals, including, but not limited to, medical, dental, and prescription services.*

(7) **CONTRACTS.**—*The Department of Elderly Affairs may select and contract with application assistance organizations to assist eligible individuals in obtaining their prescription drugs through the manufacturers' pharmaceutical assistance programs. If the department contracts with an application assistance organization, the department shall evaluate quarterly the performance of the application assistance organization to ensure compliance with the contract and the quality of service provided to eligible individuals.*

(8) **REPORTS AND EVALUATIONS.**—*By January 1 of each year, while the Sunshine for Seniors Program is operating, the Department of Elderly Affairs shall report to the Legislature regarding the implementation and operation of the Sunshine for Seniors Program.*

(9) **NONENTITLEMENT.**—*The Sunshine for Seniors Program established by this section is not an entitlement. If funds are insufficient to assist all eligible individuals, the Department of Elderly Affairs may develop a waiting list prioritized by application date.*

Section 2. *The sum of \$226,660 is appropriated from the General Revenue Fund to the Department of Elderly Affairs, and one position is authorized, to implement section 1 of this act during the 2003-2004 fiscal year.*

Section 3. Subsection (2) of section 409.904, Florida Statutes, is amended to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(2) A caretaker relative or parent, a pregnant woman, a child under age 19 who would otherwise qualify for Florida Kidcare Medicaid, a child up to age 21 who would otherwise qualify under s. 409.903(1), a person

age 65 or over, or a blind or disabled person, who would otherwise be eligible for Florida Medicaid, except that the income or assets of such family or person exceed established limitations. For a family or person in one of these coverage groups, medical expenses are deductible from income in accordance with federal requirements in order to make a determination of eligibility. Expenses used to meet spend-down liability are not reimbursable by Medicaid. Effective July 1, 2003, when determining the eligibility of a pregnant woman, a child, or an aged, blind, or disabled individual, \$270 shall be deducted from the countable income of the filing unit. When determining the eligibility of the parent or caretaker relative as defined by Title XIX of the Social Security Act, the additional income disregard of \$270 does not apply. A family or person eligible under the coverage known as the "medically needy," is eligible to receive the same services as other Medicaid recipients, with the exception of services in skilled nursing facilities and intermediate care facilities for the developmentally disabled.

Section 4. *The nonrecurring sums of \$8,265,777 from the General Revenue Fund, \$2,505,224 from the Grants and Donations Trust Fund, and \$11,727,287 from the Medical Care Trust Fund are appropriated to the Agency for Health Care Administration to implement section 3 of this act during the 2002-2003 fiscal year.*

Section 5. Effective July 1, 2003, section 409.9065, Florida Statutes, is amended to read:

409.9065 Pharmaceutical expense assistance.—

(1) **PROGRAM ESTABLISHED.**—There is established a program to provide pharmaceutical expense assistance to *eligible certain* low-income elderly individuals, which shall be known as the "Ron Silver Senior Drug Program" *and may be referred to as the "Silver Lifesaver Program."*

(2) **ELIGIBILITY.**—Eligibility for the program is limited to ~~those~~ individuals who ~~qualify for limited assistance under the Florida Medicaid program as a result of being dually eligible for both Medicare and Medicaid, but whose limited assistance or Medicare coverage does not include any pharmacy benefit. To the extent funds are appropriated, specifically eligible individuals are individuals who:~~

(a) Are Florida residents age 65 and over;

(b) Have an income *equal to or less than 200 percent of the federal poverty level;*:

1. ~~Between 88 and 120 percent of the federal poverty level;~~

2. ~~Between 88 and 150 percent of the federal poverty level if the Federal Government increases the federal Medicaid match for persons between 100 and 150 percent of the federal poverty level; or~~

3. ~~Between 88 percent of the federal poverty level and a level that can be supported with funds provided in the General Appropriations Act for the program offered under this section along with federal matching funds approved by the Federal Government under a s. 1115 waiver. The agency is authorized to submit and implement a federal waiver pursuant to this subparagraph. The agency shall design a pharmacy benefit that includes annual per member benefit limits and cost sharing provisions and limits enrollment to available appropriations and matching federal funds. Prior to implementing this program, the agency must submit a budget amendment pursuant to chapter 216;~~

(c) Are eligible for ~~both Medicare and Medicaid;~~

(d) ~~Have exhausted pharmacy benefits under Medicare, Medicaid, or any other insurance plan. Are not enrolled in a Medicare health maintenance organization that provides a pharmacy benefit; and~~

(e) Request to be enrolled in the program.

(3) **BENEFITS.**—*Eligible individuals shall receive a discount for prescription drugs. Medications covered under the pharmaceutical expense assistance program are those covered under the Medicaid program in s. 409.906(20)(19). Monthly benefit payments shall be limited to \$80 per program participant. Participants are required to make a 10-percent coinsurance payment for each prescription purchased through this program.*

(a) *Eligible individuals with incomes equal to or less than 120 percent of the federal poverty level shall receive a discount of 100 percent for the first \$160 worth of prescription drugs they receive each month, subject to copayments that the agency requires on these benefits. For all other prescription drugs received each month, eligible individuals shall receive a discount of 50 percent.*

(b) *Eligible individuals with incomes of more than 120 percent but not more than 150 percent of the federal poverty level shall receive a discount of 50 percent.*

(c) *Eligible individuals with incomes of more than 150 percent but not more than 175 percent of the federal poverty level shall receive a discount of 41 percent.*

(d) *Eligible individuals with incomes of more than 175 percent but not more than 200 percent of the federal poverty level shall receive a discount of 37 percent.*

(4) **ADMINISTRATION.**—The pharmaceutical expense assistance program shall be administered by the agency ~~for Health Care Administration~~, in collaboration ~~consultation~~ with the Department of Elderly Affairs and the Department of Children and Family Services.

(a) ~~The Agency for Health Care Administration and the Department of Elderly Affairs shall develop a single-page application for the pharmaceutical expense assistance program.~~

(a)(b) ~~The agency for Health Care Administration shall, by rule, establish for the pharmaceutical expense assistance program eligibility requirements; limits on participation; benefit limitations, including copayments; a requirement for generic drug substitution; and other program parameters comparable to those of the Medicaid program. However, there shall be no monetary limit on prescription drugs purchased with discounts of less than 51 percent unless the agency determines there is a risk of a funding shortfall in the program. If the agency determines there is a risk of a funding shortfall, the agency may establish monetary limits on prescription drugs which shall not be less than \$160 worth of prescription drugs per month.~~

(b)(e) ~~By January 1 of each year, the agency for Health Care Administration shall report to the Legislature on the operation of the program. The report shall include information on the number of individuals served, use rates, and expenditures under the program. The report shall also address the impact of the program on reducing unmet pharmaceutical drug needs among the elderly and recommend programmatic changes.~~

(5) **NONENTITLEMENT.**—The pharmaceutical expense assistance program established by this section is not an entitlement. Enrollment levels are limited to those authorized by the Legislature in the annual General Appropriations Act. ~~If, after establishing monetary limits as required by paragraph (4)(a), funds are insufficient to serve all eligible individuals eligible under subsection (2) and seeking coverage, the agency may develop a waiting list based on application dates to use in enrolling individuals in unfilled enrollment slots.~~

(6) **PHARMACEUTICAL MANUFACTURER PARTICIPATION.**—In order for a drug product to be covered under Medicaid or this program, the product's manufacturer shall:

(a) Provide a rebate to the state equal to the rebate required by the Medicaid program; and

(b) Make the drug product available to the program for the best price that the manufacturer makes the drug product available in the Medicaid program.

(7) **REIMBURSEMENT.**—Total reimbursements to pharmacies participating in the pharmaceutical expense assistance program established under this section shall be equivalent to reimbursements under the Medicaid program.

(8) **FEDERAL APPROVAL.**—*The benefits provided in this section are limited to those approved by the Federal Government pursuant to a Medicaid waiver or an amendment to the state Medicaid plan.*

Section 6. This act shall take effect upon becoming a law, unless otherwise specified in this act, but if it becomes a law after May 1, 2003, sections 3 and 4 of this act shall operate retroactively to that date.

And the title is amended as follows:

On page 1, line 23,

remove: all of said line

and insert: application; amending s. 409.9065, F.S.; adding eligibility groups; providing benefits; providing collaboration with the Department of Children and Family Services; requiring federal approval of benefits; providing effective dates.

Senator Peaden moved the following amendment which was adopted:

Senate Amendment 1 (302864) to House Amendment 1—On line 19, delete “application” and insert: intake

Senator Wasserman Schultz moved the following amendment:

Senate Amendment 2 (840164) (with title amendment) to House Amendment 1—Lines 105-222, delete those lines and insert:

Section 5. Section 409.960, Florida Statutes, is created to read:

409.960 *Popular name.*—Sections 409.960-409.982 shall be known by the popular name “LifeSaver Rx Program.”

Section 6. Section 409.962, Florida Statutes, is created to read:

409.962 *LifeSaver Rx Program established; findings; purpose.*—

(1) *It is the finding of the Legislature that approximately one in four residents of Florida have no prescription drug insurance coverage or wholly inadequate prescription drug insurance coverage. These uninsured residents pay excessive prices for prescription drugs, far higher prices than are paid by managed care organizations, insurance companies, and the Federal Government for the same medicines and dosages. In many cases, these excessive drug prices have the effect of denying residents access to medically necessary care, thereby threatening their health and safety. Many Florida residents require repeated doctor or medical clinic appointments, having become sicker because they could not afford to purchase the prescription drugs prescribed for them. Many residents are admitted to or treated at hospitals each year because they cannot afford the prescription drugs that could have prevented the need for hospitalization. Many others enter expensive institutional care settings because they cannot afford the necessary prescription drugs that could have supported them outside of an institution. In each of these circumstances, state medical assistance programs, including the Medicaid program, literally pay the price. One major reason uninsured residents pay such high prices for prescription drugs is that, unlike insured residents, they have no prescription benefits manager negotiating a fair price with drug companies on their behalf. State government currently provides prescription drugs and acts as a prescription benefit manager through a variety of health plans and assistance programs and, in 2001, the Legislature expanded the state's role in negotiating better prescription drug prices for Medicaid. State government is the only agent that, as a practical matter, can play an effective role as a market participant on behalf of all residents who are uninsured or underinsured. The state can and should act as a prescription benefit manager, negotiating drug rebates and using these funds to reimburse retail pharmacies for offering lower drug prices.*

(2) *Recognizing that the state already acts as a prescription benefit manager for a variety of health plans and assistance programs, including the Medicaid program, the LifeSaver Rx Program is established within the Agency for Health Care Administration. The purpose of the program is to expand Medicaid eligibility for prescription drug benefits only, at a level that does not exceed available funding, thereby providing prescription drug coverage to new populations by expanding the state's role as a participant in the prescription drug marketplace, negotiating rebates from drug companies, and using the funds from such rebates to make prescription drugs more affordable to Florida residents. Each program participant shall receive a discount toward the purchase of all prescription drugs that are covered by the Florida Medicaid program. The Legislature finds that such a program will improve public health and welfare, promote the economic strength of our society, and substantially benefit state health assistance programs, including the Medicaid program.*

Section 7. Section 409.964, Florida Statutes, is created to read:

409.964 Definitions.—As used in this act, unless the context otherwise indicates, the term:

- (1) “Agency” means the Agency for Health Care Administration.
- (2) “Labeler” means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 C.F.R. s. 207.20 (1999).
- (3) “Manufacturer” means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.
- (4) “Participating retail pharmacy” means a retail pharmacy or other business licensed to dispense prescription drugs in this state that:
 - (a) Participates in the state Medicaid program; or
 - (b) Agrees to participate in the LifeSaver Rx Program.
- (5) “Program” means the LifeSaver Rx Program.
- (6) “Secretary” means the Secretary of Health Care Administration or the secretary’s designee.
- (7) “Qualified resident” means an uninsured resident of the state who has obtained from the agency a LifeSaver Rx Program enrollment card.

Section 8. Section 409.966, Florida Statutes, is created to read:

409.966 Prescription drug discounts; negotiation of discounts or rebates; calculation of discounts.—The secretary shall operate the program as a state pharmaceutical assistance program under 42 U.S.C. s. 1396r-8(c)(1)(C)(i)(III) to provide discounts to participants for prescription drugs covered by a rebate agreement.

(1) The secretary shall negotiate discount prices or rebates for prescription drugs from drug manufacturers and labelers for the program. Using sums from negotiated rebates, the agency shall contract with participating retail pharmacies to deliver discounted prices to program participants.

(2) In negotiating discount or rebate terms, the secretary shall take into consideration:

- (a) The rebate calculated under the Medicaid rebate program pursuant to 42 U.S.C. s. 1396r-8;
- (b) The price provided to eligible entities under 42 U.S.C. s. 256b; and
- (c) Any other available information on prescription drug prices, discounts, and rebates.

(3) The secretary may consider any supplemental rebate negotiated pursuant to s. 409.912(38)(a)7.

(4) The drug discounts received by program participants shall be calculated by the secretary on a quarterly basis.

Section 9. Section 409.968, Florida Statutes, is created to read:

409.968 Discounted prices for program participants.—

(1) Each program participant’s payment shall be equal to the Medicaid allowable charge for the prescription minus the payment made by the agency. The payment made by the agency shall include the estimated manufacturer rebate plus the state subsidy per prescription as provided under this act and the federal matching share for the state general revenue contribution.

(2) A participating retail pharmacy shall charge the Medicaid allowable rate for prescription drugs sold to participants in the program.

(3) The participating retail pharmacy shall be reimbursed by the agency at the agency’s manufacturer estimated rebate amount.

(4) The program as established in s. 409.962 is not an entitlement.

Section 10. Section 409.970, Florida Statutes, is created to read:

409.970 Program eligibility.—

(1) An individual is eligible to participate in the program if he or she:

- (a) Is a resident of the state;
- (b) Is 65 years of age or older and is a Medicare participant;
- (c) Has a net family income at or below 200 percent of the federal poverty level in year 1 and at or below 300 percent of the federal poverty level in year 2 and thereafter;
- (d) Has exhausted all third-party prescription coverage; and
- (e) Requests to be enrolled in the program.

(2) An individual is ineligible to participate in the program if he or she is eligible for assistance under the state’s Medicaid program.

(3) The agency shall establish simple procedures for enrolling program participants. The agency shall undertake outreach efforts to build public awareness of the program and maximize enrollment by eligible residents. Revenues generated from rebates from drug manufacturers shall be used for, but not be limited to, offsetting state costs to administer the program, the purchase of prescription drugs, and any public awareness campaigns.

Section 11. Section 409.972, Florida Statutes, is created to read:

409.972 Program operation.—

(1) The Board of Pharmacy, as created by s. 465.004, in consultation with the agency, is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 requiring disclosure by participating retail pharmacies to program participants of the amount of savings provided as a result of the program. Such rules must protect information that is proprietary in nature.

(2) Participating retail pharmacies shall be paid in advance for program discounts or shall be reimbursed by the agency on a weekly or biweekly basis, in accordance with contracts between the agency and such businesses.

(3) The agency shall collect from the participating retail pharmacies utilization data necessary to calculate the amount of the rebate from the manufacturer or labeler. The agency shall protect the confidentiality of all information subject to confidentiality protection under the laws of this state or federal laws, rules, or regulations.

Section 12. Section 409.974, Florida Statutes, is created to read:

409.974 Discrepancies in rebate amounts.—Discrepancies in rebate amounts must be resolved using the process established in this section.

(1) If there is a discrepancy in the manufacturer’s or labeler’s favor between the amount claimed by a participating retail pharmacy and the amount rebated by the manufacturer or labeler, the agency, at the agency’s expense, may hire a mutually agreed-upon independent auditor. If a discrepancy still exists following the audit, the manufacturer or labeler shall justify the reason for the discrepancy or make payment to the agency for any additional amount due.

(2) If there is a discrepancy against the interest of the manufacturer or labeler in the information provided by the agency to the manufacturer or labeler regarding the manufacturer’s or labeler’s rebate, the manufacturer or labeler, at the manufacturer’s or labeler’s expense, may hire a mutually agreed-upon independent auditor to verify the accuracy of the data supplied to the agency. If a discrepancy still exists following the audit, the agency shall justify the reason for the discrepancy or refund the manufacturer or labeler.

(3) Following the completion of procedures established in subsection (1) or subsection (2), the agency, the manufacturer, or the labeler may request a hearing. Hearings shall be conducted pursuant to ss. 120.569 and 120.57. Supporting documentation must accompany the request for a hearing.

Section 13. Section 409.976, Florida Statutes, is created to read:

409.976 Report.—The agency shall provide a report on the enrollment and financial status of the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the second week in January each year.

Section 14. Section 409.978, Florida Statutes, is created to read:

409.978 Coordination with other programs.—The secretary shall combine drug pricing negotiations to maximize drug rebates when the secretary determines that the combination of such negotiations is beneficial to both the LifeSaver Rx Program and another state program, including the state Medicaid program.

Section 15. Section 409.980, Florida Statutes, is created to read:

409.980 Rulemaking.—The agency is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act. Such rules shall include eligibility requirements, limits on participation, benefit limitations, a requirement for generic drug substitution, and other program parameters comparable to those of the Medicaid program. Individuals eligible to participate in this program shall not be subject to the limit of four brand name drugs per month per recipient as specified in s. 409.912(38)(a).

Section 16. Section 409.982, Florida Statutes, is created to read:

409.982 Waivers.—The agency shall seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this act in year 1. In year 2 and thereafter, the agency shall seek any additional waivers of federal law, rule, or regulation necessary to implement the provisions of this act.

Section 17. *The agency shall contribute toward the cost of each prescription purchased by the program participant.*

Section 18. Section 409.9066, Florida Statutes, is amended to read:

409.9066 Medicare prescription discount program.—

(1) As a condition of participation in the Florida Medicaid program or the pharmaceutical expense assistance program, a pharmacy must agree to charge any individual who is a Medicare beneficiary and who is a Florida resident showing a Medicare card when he or she presents a prescription, a price no greater than the cost of ingredients equal to the average wholesale price minus 9 percent, and a dispensing fee of \$4.50.

(2) In lieu of the provisions of subsection (1), and as a condition of participation in the Florida Medicaid program or the pharmaceutical expense assistance program, a pharmacy must agree to:

(a) Provide a private voluntary prescription discount program to state residents who are Medicare beneficiaries; or

(b) Accept a private voluntary discount prescription program from state residents who are Medicare beneficiaries.

Discounts under this subsection must be at least as great as discounts under subsection (1).

(3) *The Agency for Health Care Administration shall publish, on a free website available to the public, the most recent average wholesale prices for the 200 drugs most frequently dispensed to the elderly and, to the extent possible, shall provide a mechanism that consumers may use to calculate the retail price that should be paid after the discount required in subsection (1) is applied.*

Section 19. *By January 1, 2004, the Agency for Health Care Administration shall submit to the Legislature a report regarding the cost-effectiveness of, and alternatives to, using average wholesale price in the pricing of pharmaceutical products purchased by the Medicaid program.*

Section 20. *Implementation of the LifeSaver Rx Program is contingent upon a specific appropriation authorized in the General Appropriations Act. The Legislature shall limit annual appropriations to no more than \$30 million from state funds to the Agency for Health Care Administration to be used as state matching funds for the LifeSaver Rx Program. This annual appropriation limitation shall not apply to pharmaceutical rebate revenue.*

Section 21. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

(Redesignate subsequent sections.)

And the title is amended as follows:

Lines 232-235, delete those lines and insert: application; creating s. 409.960, F.S.; providing a popular name; creating s. 409.962, F.S.; creating "The LifeSaver Rx Program"; providing purpose of the program; creating s. 409.964, F.S.; providing definitions; creating s. 409.966, F.S.; providing that the Secretary of Health Care Administration shall operate the LifeSaver Rx Program as a state pharmaceutical assistance program to provide discounts to participants for prescription drugs covered by a rebate agreement; providing that the secretary shall negotiate discount prices or rebates for prescription drugs from manufacturers or labelers; providing that the Agency for Health Care Administration shall contract with participating retail pharmacies to deliver discounted prices to program participants; providing factors to be considered in negotiating discounts or rebates; providing for quarterly calculation of discounts; creating s. 409.968, F.S.; providing for calculation of payment by program participants and the agency; requiring participating retail pharmacies in the state to charge the rate allowable under the Medicaid program for prescription drugs sold to program participants; providing for rate of reimbursement of participating retail pharmacies; creating s. 409.970, F.S.; providing requirements for program eligibility; requiring the Agency for Health Care Administration to establish enrollment procedures; providing for use of rebates from drug manufacturers; creating s. 409.972, F.S.; providing for operation of the program; authorizing the Board of Pharmacy to adopt certain rules; creating s. 409.974, F.S.; providing procedure for resolution of discrepancies in rebate amounts; creating s. 409.976, F.S.; requiring an annual report; creating s. 409.978, F.S.; authorizing coordination with other programs; creating s. 409.980, F.S.; authorizing the agency to adopt rules; creating s. 409.982, F.S.; authorizing the agency to seek certain waivers; providing a contribution by the agency toward the cost of prescription drugs purchased by program participants; amending s. 409.9066, F.S.; requiring the Agency for Health Care Administration to publish on a website the average wholesale prices of drugs provided through the program; requiring the agency to publish additional information to assist consumers; requiring a report on methods of pricing pharmaceutical products purchased by the program; providing an appropriation; providing for severability; providing effective dates.

On motion by Senator Peaden, further consideration of **CS for SB 2322** with pending **Senate Amendment 2 (840164)** to **House Amendment 1** was deferred.

By direction of the President, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

CS for CS for SB 1782—A bill to be entitled An act relating to guardianship; amending s. 744.102, F.S.; redefining the term "professional guardian"; amending s. 744.1083, F.S.; revising procedures for registration of professional and public guardians; providing for the Department of Elderly Affairs to contract with a not-for-profit entity; providing for prerequisites; providing for a form; providing fees; requiring information to be provided to the courts; providing for voluntary registration as a public guardian of a state college or university or independent college or university; providing required registration information; amending s. 744.1085, F.S.; revising provisions relating to the regulation of professional and public guardians; providing for credit checks and background screenings; providing for an examination; providing for waiver of examination; prohibiting the appointment, after a specified date, of professional and public guardians who have not met these requirements; amending s. 744.3135, F.S., relating to credit and criminal investigations; allowing a court to require nonprofessional guardians to undergo credit checks and background screening; amending s. 744.444, F.S.; allowing plenary or limited guardians to employ case managers; permitting reasonable reimbursement of compensation and fees for persons employed by the guardian for services provided to the guardianship estate; allowing plenary or limited guardians to provide certain confi-

dential information to ombudsman council members; requiring that confidentiality be maintained; amending s. 744.534, F.S.; providing for the Secretary of Elderly Affairs to determine the use of certain unclaimed funds held by a guardian; amending s. 744.7021, F.S.; revising the organization of the Statewide Public Guardianship Office within the Department of Elderly Affairs; providing that the Secretary of Elderly Affairs shall appoint or contract with the head of the office to be executive director; providing for rulemaking by the department; amending s. 744.704, F.S.; revising the powers and duties of public guardians; prescribing who may be served by public guardians; creating the Guardianship Task Force within the department; providing purpose; providing for staff, a chairperson, and membership of the task force; providing for organizations that appoint members to pay their expenses; providing duties of the task force; requiring a preliminary and a final report to the Governor and the Legislature; allowing the appointment of auxiliary members; providing a term of service; amending s. 744.108, F.S.; providing that costs and attorney's fees incurred as part of the guardianship administration shall be determined by the court; amending s. 744.3145, F.S.; reducing the educational requirements for a person serving as a guardian for the person's minor child; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Saunders, **CS for CS for SB 1782** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 1842—A bill to be entitled An act relating to municipal parking facility space surcharges; creating s. 166.271, F.S.; authorizing certain municipalities to impose and collect a surcharge on certain parking facility space sale, lease, or rental charges; requiring referendum approval; providing for a maximum surcharge rate; providing an exception; providing a limitation; specifying uses and limits of surcharge proceeds; providing for local administration of the surcharge; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Diaz de la Portilla, **CS for SB 1842** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Crist	Lee
Alexander	Dawson	Lynn
Argenziano	Diaz de la Portilla	Margolis
Aronberg	Dockery	Miller
Atwater	Fasano	Peadar
Bennett	Garcia	Posey
Bullard	Geller	Pruitt
Campbell	Haridopolos	Saunders
Carlton	Hill	Sebesta
Clary	Jones	Siplin
Constantine	Klein	Smith
Cowin	Lawson	Villalobos

Wasserman Schultz

Wilson

Wise

Webster

Nays—None

HB 1579—A bill to be entitled An act relating to autopsies; amending s. 406.135, F.S.; providing for certain survivors of deceased persons to designate agents to view or obtain autopsy records from medical examiners; providing an effective date.

—was read the third time by title.

On motion by Senator Smith, **HB 1579** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

HB 691—A bill to be entitled An act relating to economic development incentive programs; amending s. 220.191, F.S.; including certain financial services facilities as a qualified project for purposes of the capital investment tax credit; providing for future repeal; amending s. 288.1045, F.S.; revising a definition; amending s. 288.106, F.S.; revising a definition of target industry business to include defense and homeland security businesses; extending a deadline for application for a prorated tax refund under an economic stimulus exemption; amending s. 288.1088, F.S.; deleting a function of the Executive Office of the Governor relating to project approval recommendations and release of certain funds; authorizing the Governor to reallocate unencumbered funds in the Quick Action Closing Fund to supplement certain economic development programs and operations in emergency or special circumstances; providing for reallocation approval and fund release recommendations by the Executive Office of the Governor; providing an effective date.

—as amended April 29 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Garcia, the rules were waived and the Senate reconsidered the vote by which **Amendment 1 (405396)** as amended was adopted April 29.

MOTION

On motion by Senator Carlton, the rules were waived to allow the following amendment to be considered:

Senator Carlton moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1D (713040)(with title amendment)—On page 13, between lines 13 and 14, insert:

Section 6. *The proviso immediately following Specific Appropriation 173A of Chapter 2002-394, Laws of Florida, is repealed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 14, line 21, after the semicolon (;) insert: repealing proviso in chapter 2002-324, L.O.F., relating to the requirement for approval of an expenditure plan prior to release of appropriations for funding University Centers of Excellence;

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Garcia, **HB 691** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise

Nays—None

Consideration of **CS for CS for SB 1756** and **CS for SB 1758** was deferred.

CS for SB 1854—A bill to be entitled An act relating to school personnel; creating s. 1012.47, F.S.; requiring certain personnel in an alternative school that operates under contract with a district school system to file a set of fingerprints; requiring personnel to be subject to state and federal rules and regulations; providing an effective date.

—was read the third time by title.

MOTION

On motion by Senator Aronberg, the rules were waived to allow the following amendment to be considered:

Senator Aronberg moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (974062)(with title amendment)—On page 1, between lines 22 and 23, insert:

Section 2. Subsection (2) of section 1012.32, Florida Statutes, is amended to read:

1012.32 Qualifications of personnel.—

(2)(a) Instructional and noninstructional personnel who are hired to fill positions requiring direct contact with students in any district school system or university lab school shall, upon employment, file a complete set of fingerprints taken by an authorized law enforcement officer or an employee of the school or district who is trained to take fingerprints. *Instructional and noninstructional personnel who are hired or contracted to fill positions in any charter school and members of the governing board of any charter school, in compliance with s. 1002.33(12)(g), shall, upon employment, engagement of services, or appointment, file with the district school board for the district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement officer or an employee of the school or district who is trained to take fingerprints.* These fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The new employees or contractors shall be on probationary status pending fingerprint processing and determination of compliance with standards of good moral character. Employees or contractors found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed or engaged to provide services in any position requiring direct contact with students. Probationary employees or contractors terminated because of

their criminal record shall have the right to appeal such decisions. The cost of the fingerprint processing may be borne by the district school board, the charter school, or the employee, or the contractor.

(b) Personnel who have been fingerprinted or screened pursuant to this subsection and who have not been unemployed or unengaged to provide services in a public or charter school for more than 90 days shall not be required to be refingerprinted or rescreened in order to comply with the requirements of this subsection.

(c) Beginning July 1, 2003, all fingerprints submitted to the Department of Law Enforcement as required by paragraph (a), shall be retained by the Department of Law Enforcement and entered in the statewide automated fingerprint identification system authorized by s. 943.05(2)(b). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprint cards entered in the statewide automated fingerprint identification system pursuant to s. 943.051.

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: amending s. 1012.32, F.S.; requiring both instructional and noninstructional personnel of charter schools to file fingerprints with the school board of the district within which the charter school is located; providing that contractors have the same probationary status as employees; providing duties of the Department of Law Enforcement with respect to retention and search of fingerprint records submitted on behalf of school employees and contractors; providing duties of school districts and charter schools; providing for fees;

On motion by Senator Diaz de la Portilla, **CS for SB 1854** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 1944—A bill to be entitled An act relating to mobile home owners; amending s. 48.183, F.S.; providing for service of process in an action for possession of residential premises; creating s. 320.08015, F.S.; providing for a license tax surcharge for deposit in the Florida Mobile Home Relocation Trust Fund; amending s. 320.081, F.S.; conforming to the act; amending s. 715.101, F.S.; including a reference to chapter 723, F.S., in the Disposition of Personal Property Landlord and Tenant Act; amending s. 723.007, F.S.; providing a surcharge under the Florida Mobile Home Act on certain mobile home lots for deposit in the Florida Mobile Home Relocation Trust Fund; amending s. 723.041, F.S.; providing for the placement of any size used or new mobile home on a mobile home lot under certain circumstances; amending s. 723.061, F.S.; revising language to include reference to the eviction of a mobile home tenant or a mobile home occupant; amending s. 723.0611, F.S.; providing that persons who receive compensation from the Florida Mobile Home Relocation Corporation shall not have a claim or cause of action against the corporation or the park owner under certain circumstances; amending s. 723.06115, F.S.; revising language with respect to the Florida Mobile Home Relocation Trust Fund; providing reference to the deposit of certain surcharges into the trust fund; amending s. 723.06116, F.S.; increasing certain fees; providing an additional situation in which a mobile home park owner is not required to make certain payments and is not entitled to certain compensation from the Florida Mobile Home

Relocation Corporation; amending s. 723.0612, F.S.; revising language with respect to compensation from the Florida Mobile Home Relocation Corporation; providing an appropriation; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Dockery, **CS for CS for SB 1944** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 554—A bill to be entitled An act relating to the interdistrict transfer and use of water; amending s. 373.2295, F.S.; redefining the term “interdistrict transfer and use”; validating and providing continued effect of agreements between water management districts which were entered into before the effective date of the act; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Constantine, **CS for CS for SB 554** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Margolis
Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise

Nays—None

Vote after roll call:

Yea—Siplin

CS for SB 2348—A bill to be entitled An act relating to the Advisory Council for a Fit Florida; amending s. 288.1229, F.S.; providing for creation and placement of council; providing for powers and duties, membership and terms thereof; providing for reimbursement for per diem and travel expenses for members of the council; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Pruitt, **CS for SB 2348** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 2210—A bill to be entitled An act relating to substance abuse treatment and intervention; amending s. 39.001, F.S.; providing additional legislative findings and purposes with respect to the treatment of substance abuse; specifying that treatment may be required following adjudication; amending ss. 39.402 and 39.407, F.S.; authorizing the court to order specified persons to submit to a substance abuse assessment upon a showing of good cause in connection with a shelter hearing or petition for dependency; authorizing sanctions for noncompliance; amending ss. 39.507 and 39.521, F.S.; authorizing the court to order specified persons to submit to a substance abuse assessment as part of an adjudicatory order or pursuant to a disposition hearing; requiring a showing of good cause; authorizing the court to require participation in a treatment-based drug court program; authorizing the court to impose sanctions for noncompliance; amending s. 39.701, F.S.; authorizing the court to extend the time for completing a case plan during judicial review, based upon participation in a treatment-based drug court program; amending s. 397.334, F.S.; revising legislative intent with respect to treatment-based drug court programs to reflect participation by community support agencies, the Department of Education, and other individuals; including post adjudicatory programs as part of treatment-based drug court programs; requiring each judicial circuit to establish a position for a coordinator of the treatment-based drug court program; requiring the chief judge of each judicial circuit to appoint an advisory committee for the treatment-based drug court program; providing for membership of the committee; revising provisions with respect to an annual report; amending s. 910.035, F.S.; revising provisions with respect to conditions for the transfer of a case in the drug court treatment program to a county other than that in which the charge arose; amending s. 948.08, F.S.; revising eligibility requirements for participation in pretrial intervention programs; authorizing the court to refer certain defendants who are assessed with a substance abuse problem to a pretrial intervention program with the approval of the state attorney; deleting provisions authorizing advisory committees for the district pretrial intervention programs; amending s. 985.306, F.S.; revising eligibility requirements for participation in delinquency pretrial intervention programs; authorizing the court to refer certain juveniles who are assessed as having a substance abuse problem to a substance abuse education and treatment intervention program; deleting provisions authorizing advisory committees for the district delinquency pretrial intervention program; providing an effective date.

—was read the third time by title.

On motion by Senator Lynn, **CS for SB 2210** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Carlton	Fasano
Alexander	Clary	Garcia
Argenziano	Constantine	Geller
Aronberg	Cowin	Haridopolos
Atwater	Crist	Hill
Bennett	Dawson	Jones
Bullard	Diaz de la Portilla	Klein
Campbell	Dockery	Lawson

Lee	Pruitt	Wasserman Schultz	Villalobos	Webster	Wise
Lynn	Saunders	Webster	Wasserman Schultz	Wilson	
Margolis	Sebesta	Wilson	Nays—None		
Miller	Siplin	Wise			
Peaden	Smith				
Posey	Villalobos				
Nays—None					

SENATOR MILLER PRESIDING

HB 1501—A bill to be entitled An act relating to license plates; amending ss. 320.08056 and 320.08058, F.S.; creating a Hospice license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

—was read the third time by title.

On motion by Senator Wasserman Schultz, **HB 1501** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for SB 924** was deferred.

CS for SB 1248—A bill to be entitled An act relating to real property reform; requiring the Office of Program Policy Analysis and Government Accountability to review and evaluate changes to the laws affecting land sales, exemptions, and mandatory homeowners' associations and disclosure laws related to adult and residential subdivisions; requiring the Office of Program Policy Analysis and Government Accountability to consult with the Department of Business and Professional Regulation, homeowners and homeowners' associations, and developers and to hold hearings; requiring a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding its evaluation of the need for change to laws that protect the interests of consumers and property owners; providing an effective date.

—was read the third time by title.

On motion by Senator Wise, **CS for SB 1248** was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Crist	Lawson
Argenziano	Dawson	Lee
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Bennett	Fasano	Peaden
Bullard	Garcia	Posey
Campbell	Geller	Pruitt
Carlton	Haridopolos	Saunders
Clary	Hill	Sebesta
Constantine	Jones	Siplin
Cowin	Klein	Smith

CS for CS for SB 1660—A bill to be entitled An act relating to community development and planning; creating s. 163.3162, F.S.; providing a short title; providing legislative findings and purpose with respect to agricultural activities and duplicative regulation; defining the terms “farm,” “farm operation,” and “farm product” for purposes of the act; prohibiting a county from adopting any ordinance, resolution, regulation, rule, or policy to prohibit or otherwise limit a bona fide farm operation on land that is classified as agricultural land under s. 193.461, F.S.; providing that the act does not limit the powers of a county under certain circumstances; clarifying that a farm operation may not expand its operations under certain circumstances; providing that the act does not limit the powers of certain counties; providing that certain county ordinances are not deemed to be a duplication of regulation; amending s. 163.3174, F.S.; providing local planning authority for certain municipalities in certain charter counties; providing severability; amending s. 193.461, F.S.; authorizing the governing body of a county to revoke the waiver of annual property classification; revising the date by which the property appraiser must provide notice to property owners; providing for waiver and revocation of the waiver of the notice and certification requirement for land classification; defining the term “extenuating circumstances” to include failure to return the agricultural classification form under certain circumstances; providing for effect of waiver of annual application requirements; amending s. 163.3167, F.S.; prohibiting subsequent abrogations of certain quasi-judicial development orders; providing for retroactive application; providing effective dates.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Argenziano, the rules were waived to allow the following amendment to be considered:

Senator Pruitt offered the following amendment which was moved by Senator Argenziano and adopted by two-thirds vote:

Amendment 1 (385110)(with title amendment)—On page 8, line 5 through page 9, line 11, delete those lines and insert:

Section 5. This act shall take effect July 1, 2003.

And the title is amended as follows:

On page 1, line 21 through page 2, line 9, delete those lines and insert: amending s. 193.461, F.S.; authorizing the governing body of a county to revoke the waiver of annual property classification; revising the date by which the property appraiser must provide notice to property owners; providing for waiver and revocation of the waiver of the notice and certification requirement for land classification; defining the term “extenuating circumstances” to include failure to return the agricultural classification form under certain circumstances; providing for effect of waiver of annual application requirements; amending s. 163.3167, F.S.; prohibiting subsequent abrogations of certain quasi-judicial development orders; providing for retroactive application; providing an effective date.

MOTION

On motion by Senator Argenziano, the rules were waived to allow the following amendment to be considered:

Senator Argenziano moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (134234)—On page 3, lines 12 and 13, delete those lines and insert: *limit an activity of a bona fide farm operation on land classified as*

MOTION

On motion by Senator Argenziano, the rules were waived to allow the following amendment to be considered:

Senator Bennett offered the following amendment which was moved by Senator Argenziano and adopted by two-thirds vote:

Amendment 3 (684770)(with title amendment)—On page 7, line 17 through page 8, line 4, delete those lines

And the title is amended as follows:

On page 2, lines 5-9, delete those lines and insert: of annual application requirements; providing effective dates.

On motion by Senator Argenziano, **CS for CS for SB 1660** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for CS for SB 2238—A bill to be entitled An act relating to real estate appraisers; amending s. 475.611, F.S.; revising and providing definitions applicable to regulation of real estate appraisers; providing that licenses for the category of licensed appraiser shall not be issued after a specified date; redesignating registered assistant appraisers as registered trainee appraisers; amending s. 475.612, F.S.; conforming terminology; authorizing real estate brokers, broker-salespersons, and salespersons to provide valuation services without being regulated as appraisers; authorizing brokers and salespersons to give price opinions without being regulated as appraisers; removing authorization for graduate students in appraising to be supervised by licensed brokers; amending s. 475.613, F.S.; granting the Florida Real Estate Appraisal Board power by rule to establish standards for and regulate supervisory appraisers; removing obsolete language; amending s. 475.6147, F.S.; clarifying applicability of fee provisions to certification and registration; amending s. 475.617, F.S.; clarifying experience requirements for certification of residential and general appraisers; conforming terminology; creating s. 475.6175, F.S.; requiring postlicensure education for registered trainee appraisers to maintain registration; requiring completion of such education prior to the second renewal following initial registration; requiring requalification for subsequent registration as a trainee appraiser; authorizing a physical hardship extension; amending s. 475.618, F.S.; revising continuing education requirements to authorize and provide for certification of distance learning courses by independent certification organizations; conforming terminology; amending s. 475.6221, F.S.; requiring a registered trainee appraiser to perform appraisal services under the direct supervision of a licensed or certified appraiser; providing that a registered trainee appraiser may only receive compensation through or from the primary supervisory appraiser; creating s. 475.6222, F.S.; providing requirements for supervision of registered trainee appraisers; amending s. 475.6295, F.S.; clarifying authority to inspect appraisers and appraisal offices; creating s. 475.631, F.S.; providing for reciprocity for nonresident appraisers; requiring an irrevocable consent to suits and actions and providing for service of process or pleading; requiring resident appraisers who become nonresidents to notify the board and comply with nonresident requirements; providing penalties; authorizing the board to adopt rules for regulation of nonresident appraisers; amending ss. 475.01, 475.011, 475.615, 475.619, 475.620, 475.622, 475.624, 475.626, and 475.627, F.S.; conforming terminology; amending s. 475.001, F.S.; conforming terminology; amending s. 475.01, F.S.; redesignating “broker-salespersons” as “broker associates” and “salespersons” as “sales associates”; expanding the definition of “transaction broker”; amending s. 475.011, F.S.; conforming

terminology; amending ss. 475.02 and 475.04, F.S.; conforming terminology; creating s. 475.161, F.S.; providing for licensing of broker associates and sales associates; amending s. 475.17, F.S.; revising qualifications for practice; authorizing additional subjects for postlicensure education; restricting approval of distance learning courses to instances of hardship; conforming terminology; amending s. 475.175, F.S.; revising requirements to take the license examination; revising requirements with respect to notice of completion of educational requirements; amending s. 475.181, F.S.; conforming terminology; amending s. 475.182, F.S.; providing guidelines for approving specialty courses; conforming terminology; amending s. 475.215, F.S.; conforming terminology; amending s. 475.22, F.S.; revising requirements with respect to brokers’ signs; amending s. 475.23, F.S.; providing for notice of change of address; conforming terminology; amending s. 475.25, F.S.; revising duties of licensees with respect to escrowed property; allowing a broker to place personal or brokerage funds in property management and sales escrow accounts; providing penalties; providing a time limit on filing complaints against a licensee; providing for referral of criminal violations to prosecuting authorities; conforming terminology; amending s. 475.2755, F.S.; conforming terminology; amending s. 475.278, F.S.; revising provisions relating to authorized brokerage relationships; providing a presumption of transaction brokerage; revising disclosure requirements; amending s. 475.31, F.S.; providing effect of revocation or suspension of a broker’s license; conforming terminology; amending ss. 475.37 and 475.41, F.S.; conforming terminology; amending s. 475.42, F.S.; providing an additional ground for disciplinary action relating to false or misleading information on real estate located in the state; providing penalties; conforming terminology; amending s. 475.43, F.S.; conforming terminology; amending s. 475.451, F.S.; revising prerequisites for renewal of an instructor permit; removing an exemption from instructor examination requirements; conforming terminology; repealing s. 475.4511(4) and (5), F.S., relating to the prohibition against a school advertising in conjunction with an affiliated broker and publishing a “pass/fail” ratio; amending ss. 475.453 and 475.455, F.S.; conforming terminology; amending s. 475.482, F.S.; increasing the maximum amount that may be in the Real Estate Recovery Fund; conforming terminology; amending s. 475.483, F.S.; revising guidelines for payment of attorney’s fees with respect to recovery from the fund; conforming terminology; amending ss. 475.484 and 475.5017, F.S.; increasing maximum amounts payable from the fund; conforming terminology; amending s. 475.612, F.S.; conforming terminology; amending s. 689.25, F.S.; prescribing facts and conditions the existence of which need not be disclosed in a real estate transaction; repealing s. 475.421, F.S., relating to publication of false or misleading information on real estate located in the state; repealing s. 475.422, F.S., relating to disclosure of termite and roof inspection reports; amending ss. 83.49, 440.02, 443.036, 501.604, 687.14, 721.20, and 760.29, F.S.; conforming terminology; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Constantine, **CS for CS for SB 2238** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for SB 2364** was deferred.

HB 947—A bill to be entitled An act relating to tests for alcohol, chemical substances, or controlled substances; amending ss. 316.1932 and 327.352, F.S.; revising language that provides for tests to determine blood alcohol content or the presence of chemical or controlled substances; providing an effective date.

—was read the third time by title.

On motion by Senator Saunders, **HB 947** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 761—A bill to be entitled An act relating to the fitting and dispensing of hearing aids; amending s. 484.0512, F.S.; providing a criminal penalty for failure of a seller to refund within a specified time moneys required to be refunded to a purchaser for the return or attempted return of a hearing aid; providing a definition; providing an effective date.

—was read the third time by title.

On motion by Senator Wasserman Schultz, **HB 761** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for SB 2568—A bill to be entitled An act relating to children and family services; amending s. 744.102, F.S.; redefining the term “professional guardian”; amending s. 744.1083, F.S.; revising procedures for registration of professional and public guardians; providing for the Department of Elderly Affairs to contract with a not-for-profit entity; providing for prerequisites; providing for a form; providing fees; requiring information to be provided to the courts; providing for voluntary registration as a public guardian of a state college or university or independent college or university; providing required registration information; amending s. 744.1085, F.S.; revising provisions relating to the regulation of professional and public guardians; providing for credit checks and background screenings; providing for an examination; providing for waiver of examination; prohibiting the appointment, after a specified date, of professional and public guardians who have not met these requirements; amending s. 744.3135, F.S., relating to credit and criminal investigations; allowing a court to require nonprofessional guardians to

undergo credit checks and background screening; amending s. 744.444, F.S.; allowing plenary or limited guardians to employ case managers; permitting reasonable reimbursement of compensation and fees for persons employed by the guardian for services provided to the guardianship estate; allowing plenary or limited guardians to provide certain confidential information to ombudsman council members; requiring that confidentiality be maintained; amending s. 744.534, F.S.; providing for the Secretary of Elderly Affairs to determine the use of certain unclaimed funds held by a guardian; amending s. 744.7021, F.S.; revising the organization of the Statewide Public Guardianship Office within the Department of Elderly Affairs; providing that the Secretary of Elderly Affairs shall appoint or contract with the head of the office to be executive director; providing for rulemaking by the department; amending s. 744.704, F.S.; revising the powers and duties of public guardians; prescribing who may be served by public guardians; creating the Guardianship Task Force within the department; providing purpose; providing for staff, a chairperson, and membership of the task force; providing for organizations that appoint members to pay their expenses; providing duties of the task force; requiring a preliminary and a final report to the Governor and the Legislature; allowing the appointment of auxiliary members; providing a term of service; amending s. 744.108, F.S.; providing that costs and attorney’s fees incurred as part of the guardianship administration shall be determined by the court; amending s. 744.3145, F.S.; reducing the educational requirements for a person serving as a guardian for the person’s minor child; creating ss. 393.506 and 400.9685, F.S.; providing for certain unlicensed staff to assist persons with developmental disabilities to administer certain prescription medications; providing the conditions under which staff may assist with medication; requiring the Agency for Health Care Administration to provide for specified aspects of the administration of medication in rule; amending s. 415.102, F.S.; redefining the terms “abuse,” “neglect,” and “vulnerable adult”; creating s. 415.1046, F.S.; providing the Department of Children and Family Services with the authority to contract for provision of adult protective investigative services; stipulating the requirements for sheriffs’ offices to be eligible to contract for provision of adult protective investigative services; providing for the contracting and funding for adult protective investigative services; requiring sheriff’s employees to complete certain training; stipulating minimum requirements for the sheriffs’ offices’ operation of adult protective investigations; requiring a program performance evaluation; amending s. 402.310, F.S.; authorizing the Department of Children and Family Services or a local licensing agency to deny, suspend, or revoke the license of a child care facility, a licensed family day care home, or a large family child care home and to deny, suspend, or revoke the registration of a family day care home following a violation of certain laws or rules; amending s. 402.313, F.S.; abolishing the authority of the Department of Children and Family Services or a local licensing agency to impose an administrative fine for family day care homes; requiring the department to establish minimum safety standards for licensed family day care homes; amending s. 402.3131, F.S.; abolishing the authority of the Department of Children and Family Services or a local licensing agency to impose an administrative fine for large family child care homes; amending s. 402.3055, F.S.; requiring a signed affidavit attesting to the accuracy of certain information provided by an applicant for a child care facility license; amending s. 402.310, F.S.; requiring the Department of Children and Family Services to establish and impose uniform penalties relating to child care facility violations; requiring implementation not contingent upon an appropriation; creating s. 402.3105, F.S.; requiring the department to establish a database of information relating to violations, citations, and penalties imposed against child care facilities regulated by the state; requiring the Department of Children and Family Services to consult and meet the requirements of the State Technology Office; specifying database capabilities and uses of information contained therein; requiring implementation not contingent upon an appropriation; directing the Department of Children and Family Services to adopt a rule defining child care; providing an effective date.

—as amended April 29 was read the third time by title.

MOTION

On motion by Senator Lynn, the rules were waived to allow the following amendment to be considered:

Senators Lynn and Argenziano offered the following amendment which was moved by Senator Lynn and adopted by two-thirds vote:

Amendment 1 (102110)(with title amendment)—On page 33, between lines 5 and 6, insert:

Section 23. Paragraphs (e) and (f) are added to subsection (15) of section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(15) Submit semiannually to the agency, or more frequently if requested by the agency, information regarding facility staff-to-resident ratios, staff turnover, and staff stability, including information regarding certified nursing assistants, licensed nurses, the director of nursing, and the facility administrator. For purposes of this reporting:

(e) *A nursing facility which does not have a conditional license may be cited for failure to comply with the standards in s. 400.23(3)(a) only if it has failed to meet those standards on 2 consecutive days or if it has failed to meet at least 97 percent of those standards on any one day.*

(f) *A facility which has a conditional license must be in compliance with the standards in s. 400.23(3)(a) at all times.*

Nothing in this section shall limit the agency's ability to impose a deficiency or take other actions if a facility does not have enough staff to meet the residents' needs.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2 through page 5, line 7, delete those lines and insert: An act relating to vulnerable persons; amending s. 744.102, F.S.; redefining the term "professional guardian"; amending s. 744.1083, F.S.; revising procedures for registration of professional and public guardians; providing for the Department of Elderly Affairs to contract with a not-for-profit entity; providing for prerequisites; providing for a form; providing fees; requiring information to be provided to the courts; providing for voluntary registration as a public guardian of a state college or university or independent college or university; providing required registration information; amending s. 744.1085, F.S.; revising provisions relating to the regulation of professional and public guardians; providing for credit checks and background screenings; providing for an examination; providing for waiver of examination; prohibiting the appointment, after a specified date, of professional and public guardians who have not met these requirements; amending s. 744.3135, F.S., relating to credit and criminal investigations; allowing a court to require nonprofessional guardians to undergo credit checks and background screening; amending s. 744.444, F.S.; allowing plenary or limited guardians to employ case managers; permitting reasonable reimbursement of compensation and fees for persons employed by the guardian for services provided to the guardianship estate; allowing plenary or limited guardians to provide certain confidential information to ombudsman council members; requiring that confidentiality be maintained; amending s. 744.534, F.S.; providing for the Secretary of Elderly Affairs to determine the use of certain unclaimed funds held by a guardian; amending s. 744.7021, F.S.; revising the organization of the Statewide Public Guardianship Office within the Department of Elderly Affairs; providing that the Secretary of Elderly Affairs shall appoint or contract with the head of the office to be executive director; providing for rulemaking by the department; amending s. 744.704, F.S.; revising the powers and duties of public guardians; prescribing who may be served by public guardians; creating the Guardianship Task Force within the department; providing purpose; providing for staff, a chairperson, and membership of the task force; providing for organizations that appoint members to pay their expenses; providing duties of the task force; requiring a preliminary and a final report to the Governor and the Legislature; allowing the appointment of auxiliary members; providing a term of service; amending s. 744.108, F.S.; providing that costs and attorney's fees incurred as part of the guardianship administration shall be determined by the court; amending s. 744.3145, F.S.; reducing the educational requirements for a person serving as a guardian for the person's minor child; creating ss. 393.506 and 400.9685, F.S.; providing for certain unlicensed staff to assist persons with developmental disabilities to administer certain prescription medications; providing the conditions under which staff may assist with medication; requiring the Agency for Health Care Administration to provide for specified aspects of the administration of medication in rule; amending s. 415.102, F.S.; redefining the terms "abuse," "neglect," and "vulnerable adult"; creating s. 415.1046, F.S.; providing the Department of Children and Family Services with the authority to contract for provision of adult protective investigative services; stipulating the requirements for sheriffs' offices to be eligible to contract for provision of adult

protective investigative services; providing for the contracting and funding for adult protective investigative services; requiring sheriff's employees to complete certain training; stipulating minimum requirements for the sheriffs' offices' operation of adult protective investigations; requiring a program performance evaluation; amending s. 402.310, F.S.; authorizing the Department of Children and Family Services or a local licensing agency to deny, suspend, or revoke the license of a child care facility, a licensed family day care home, or a large family child care home and to deny, suspend, or revoke the registration of a family day care home following a violation of certain laws or rules; amending s. 402.313, F.S.; abolishing the authority of the Department of Children and Family Services or a local licensing agency to impose an administrative fine for family day care homes; requiring the department to establish minimum safety standards for licensed family day care homes; amending s. 402.3131, F.S.; abolishing the authority of the Department of Children and Family Services or a local licensing agency to impose an administrative fine for large family child care homes; amending s. 402.3055, F.S.; requiring a signed affidavit attesting to the accuracy of certain information provided by an applicant for a child care facility license; amending s. 402.310, F.S.; requiring the Department of Children and Family Services to establish and impose uniform penalties relating to child care facility violations; requiring implementation not contingent upon an appropriation; creating s. 402.3105, F.S.; requiring the department to establish a database of information relating to violations, citations, and penalties imposed against child care facilities regulated by the state; requiring the Department of Children and Family Services to consult and meet the requirements of the State Technology Office; specifying database capabilities and uses of information contained therein; requiring implementation not contingent upon an appropriation; directing the Department of Children and Family Services to adopt a rule defining child care; amending 400.141, F.S.; providing that a nursing facility may be cited for a failure to comply with standards under specified conditions; providing an effective date.

On motion by Senator Lynn, **CS for SB 2568** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Alexander	Dockery	Peadar
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise
Diaz de la Portilla	Miller	

Nays—None

CS for SB 924—A bill to be entitled An act relating to trust funds; terminating specified trust funds within the Department of Management Services, the Department of Revenue, and the Department of Environmental Protection; providing for the disposition of balances in and revenues of such trust funds; declaring the findings of the Legislature that specified trust funds within the Department of Environmental Protection, the Department of Management Services, and the Department of Revenue are exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; repealing ss. 122.351 and 650.06, F.S., relating to funding by local agencies and the Social Security Contribution Trust Fund; amending ss. 121.011, 121.031, 121.141, 122.26, 122.27, 122.30, 122.35, 650.04, and 650.05, F.S., to conform; providing for payment of certain social security contributions to the Internal Revenue Service rather than the Social Security Contribution Trust Fund; amending s. 607.1901, F.S., relating to the Corporate Tax Administration Trust Fund; to conform; providing for the additional transfers into the General Revenue Fund; amending ss. 253.03 and 895.09, F.S.; repealing the Forfeited Property Trust Fund in the Department of Environmental Protection; amending s. 932.7055, F.S.; to conform; repealing s. 20.2553, F.S.; repealing the Federal Law Enforcement Trust Fund in

the Department of Environmental Protection; repealing s. 110.151(7), F.S., relating to the State Employee Child Care Revolving Trust Fund; repealing s. 213.31, F.S.; terminating the Corporation Tax Administration Trust Fund; providing an effective date.

—was read the third time by title.

On motion by Senator Clary, **CS for SB 924** was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Miller	

Nays—None

CS for CS for SB 1312—A bill to be entitled An act relating to phosphate mining; amending s. 211.3103, F.S.; amending the tax on phosphate rock; providing for the distribution of tax proceeds; deleting obsolete language; amending s. 378.021, F.S.; directing the Department of Environmental Protection to amend the master reclamation plan; amending s. 378.031, F.S.; providing additional intent concerning reclamation activities; amending s. 378.035, F.S.; amending authorized uses of funds deposited in the Nonmandatory Land Reclamation Trust Fund; removing requirements for a reserve; limiting reclamation expenditures for fiscal year 2003-2004; amending s. 378.036, F.S.; creating a not-for-profit partnership to assist in phosphate reclamation; providing duties of the partnership; providing for the administration of partnership funds; providing an appropriation; amending s. 378.212; providing authority for a variance for certain reclamation activities; amending s. 378.404, F.S.; allowing variances for water supply development; amending s. 403.4154, F.S.; providing criminal penalties for certain violations; prohibiting the distribution of certain company assets under certain circumstances; providing for the declaration of an imminent hazard if certain financial conditions exist; providing limited liability for entities assisting in the abatement of imminent hazards; amending a provision granting certain rebates of phosphate fees; amending s. 403.4155, F.S.; directing that rules be developed for financial assurance, interim stack management, and stack closure; requiring the Department of Environmental Protection to conduct a study; providing funds for the study; providing for the transfer of certain funds from the Nonmandatory Land Reclamation Trust Fund to the General Revenue Fund; providing for the funding of a study by the Florida Institute of Phosphate Research; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Alexander, **CS for CS for SB 1312** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Crist	Lawson
Argenziano	Dawson	Lee
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Bennett	Fasano	Miller
Bullard	Garcia	Peaden
Campbell	Geller	Posey
Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin

Smith
Villalobos

Wasserman Schultz
Webster

Wilson
Wise

Nays—None

THE PRESIDENT PRESIDING

SPECIAL ORDER CALENDAR, continued

On motion by Senator Carlton—

CS for SB 2296—A bill to be entitled An act relating to K-20 education accountability; amending s. 1008.31, F.S.; expanding legislative intent for the K-20 education performance accountability system; providing requirements and an implementation schedule for performance-based funding; providing mission, goals, and measures; requiring collection of certain data; requiring the State Board of Education to conduct a study of equivalency scores for certain examinations of certain students; authorizing the State Board of Education to adopt certain equivalency scores as meeting graduation requirements in lieu of FCAT passing scores; defining eligible students; providing for the use of certain funds; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 2296** to **HB 915**.

Pending further consideration of **CS for SB 2296** as amended, on motion by Senator Carlton, by two-thirds vote **HB 915** was withdrawn from the Committees on Education; Appropriations Subcommittee on Education; and Appropriations.

On motion by Senator Carlton—

HB 915—A bill to be entitled An act relating to K-20 education accountability; amending s. 1008.31, F.S.; expanding legislative intent for the K-20 education performance accountability system; providing requirements and an implementation schedule for performance-based funding; providing mission, goals, and measures; requiring collection of certain data; requiring the State Board of Education to conduct an assessment study; authorizing adoption of equivalent scores for purpose of graduation; providing an effective date.

—a companion measure, was substituted for **CS for SB 2296** as amended and read the second time by title.

Pursuant to Rule 4.19, **HB 915** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 1020**, **CS for SB 2054**, and **CS for CS for SB 700** was deferred.

On motion by Senator Crist, the Senate resumed consideration of—

SB 2002—A bill to be entitled An act relating to law enforcement officer training; amending s. 943.16, F.S.; providing for reimbursement of tuition, wages, and benefits by a law enforcement trainee who terminates his or her employment in an employing agency's basic recruit training program; authorizing an employing agency to commence a civil action for its reimbursement; providing exceptions; providing an effective date.

—which was previously considered April 29. Pending **Amendment 2 (885878)** by Senator Crist was withdrawn.

Senator Crist moved the following amendment which was adopted:

Amendment 3 (232396)(with title amendment)—On page 1, line 23 through page 3, line 16, delete those lines and insert:

(2)(a) A trainee who attends such approved training program at the expense of an employing agency must remain in the employment or appointment of such employing agency for a period of not less than 2 years after graduation from the basic recruit training program ~~1 year~~. If employment or appointment is terminated on the trainee's own initiative within 2 years ~~1 year~~, he or she shall reimburse the employing

agency for the full cost of his or her participation; and such employing agency may institute a civil action to collect such tuition cost if it is not reimbursed tuition, other course expenses, and additional amounts as provided in paragraph (b).

(b) In addition to reimbursement for the full cost of tuition and other course expenses, a trainee terminating employment as provided in paragraph (a) shall reimburse the employing agency for the trainee's wages and benefits paid by the employing agency during the academy training period according to the following schedule:

1. For a trainee terminating employment within 6 months of graduation from the basic recruit training program, the full amount of wages and benefits paid during the academy training period.

2. For a trainee terminating employment within 6 months and 1 day to 12 months of graduation from the basic recruit training program, an amount equal to three-fourths of the full amount of wages and benefits paid during the academy training period.

3. For a trainee terminating employment within 12 months and 1 day to 18 months of graduation from the basic recruit training program, an amount equal to one-half of the full amount of wages and benefits paid during the academy training period.

4. For a trainee terminating employment within 18 months and 1 day to 24 months of graduation from the basic recruit training program, an amount equal to one-fourth of the full amount of wages and benefits paid during the academy training period.

(3) An employing agency is authorized to pay the required fee for an applicant to take the officer certification examination on one occasion.

(4) An employing agency may institute a civil action to collect such cost of tuition, other course expenses, wages, and benefits as provided in this section if it is not reimbursed, provided that the employing agency gave written notification to the trainee of the 2-year employment commitment during the employment screening process. The trainee shall return signed acknowledgement of receipt of such notification.

(5) For purposes of this section, "academy training period" means the period of time that a trainee is attending an approved basic recruit training program in a law enforcement or correctional officer academy class for purposes of obtaining certification pursuant to chapter 943, until the date of graduation from such class. The term "other course expenses" includes the cost of meals.

(6) This section does not apply to trainees who terminate employment with the employing agency and resign their certification upon termination in order to obtain employment for which certification under chapter 943 is not required. Further, this section does not apply to trainees attending auxiliary officer training.

(7) Notwithstanding the provisions of this section, an employing agency may waive a trainee's requirement of reimbursement in part or in full when the trainee terminates employment due to hardship or extenuating circumstances.

And the title is amended as follows:

On page 1, lines 3-10, delete those lines and insert: training; amending s. 943.16, F.S.; requiring trainees attending approved basic recruit training programs to reimburse an employing agency for tuition, other course expenses, wages, and benefits paid by the agency if the employee terminates his or her employment or appointment within a specified time period after graduation; providing a schedule for reimbursement of a trainee's wages and benefits; authorizing an employing agency to institute civil action under certain circumstances; providing definitions; providing applicability; authorizing an employing agency to waive reimbursement requirements under certain circumstances; providing a conditional effective

Pursuant to Rule 4.19, **SB 2002** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 2316** was deferred.

On motion by Senator Margolis—

CS for CS for SB 1626—A bill to be entitled An act relating to weight-loss pills; defining the term "weight-loss pill"; prohibiting the sale or other transfer of weight-loss pills to minors; providing a defense; requiring establishments selling such pills at retail to post notice that such sale is unlawful; providing penalties; providing an effective date.

—was read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1 (043680)—On page 2, delete line 8 and insert: *loss. The term includes a pill that*

Amendment 2 (744332)—On page 2, line 10, delete "alkaloid-containing" and insert: *alkaloid containing*

Amendment 3 (243138)(with title amendment)—On page 3, lines 4-11, delete those lines and insert:

(4) A first violation of subsection (2) or subsection (3) is punishable by a fine of \$100. A second violation of subsection (2) or subsection (3) is punishable by a fine of \$250. A third violation of subsection (2) or subsection (3) is punishable by a fine of \$500. A fourth or subsequent violation of subsection (2) or subsection (3) is punishable by a fine as determined by the Department of Agriculture, not to exceed \$1,000.00.

(5) The Department of Agriculture is authorized to adopt rules to implement this section.

Section 2. This act shall take effect July 1, 2004.

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: authorizing the Department of Agriculture to adopt rules;

Pursuant to Rule 4.19, **CS for CS for SB 1626** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 1132** was deferred.

On motion by Senator Lynn—

CS for CS for SB 1740—A bill to be entitled An act relating to dependent children; amending s. 39.202, F.S.; clarifying a right of access to records for certain attorneys and providing a right to access for certain school employees and certain employees and volunteers of a certified domestic violence center; authorizing the Department of Children and Family Services and specified law enforcement agencies to release certain information when a child is under investigation or supervision; providing an exception; providing that persons releasing such information are not subject to civil or criminal penalty for the release; creating s. 39.0136, F.S.; providing standards for background screening of persons seeking approval as relative and nonrelative caregivers of children; enumerating offenses the existence of which will cause disapproval; specifying the date that application of standards for background screening becomes effective; amending ss. 39.301, 39.401, 39.521, F.S.; clarifying the screening that must occur for purposes of a child protective investigation, for the placement of a child, and for providing information to the court; amending s. 39.812, F.S.; requiring certain screening of prospective adoptive parents; amending s. 63.037, F.S.; exempting adoption proceedings initiated under ch. 39, F.S., from certain provisions of s. 63.092, F.S., relating to records checks; amending s. 63.092, F.S.; conforming a cross-reference; amending s. 119.07, F.S.; providing for the venue of actions sought to release exempted public records under ch. 39, F.S.; creating s. 409.017, F.S.; providing standards for background screening of persons in a household seeking licensure as a foster home; enumerating offenses the existence of which will cause disapproval; providing for rescreening; imposing a duty upon the licensee; specifying the date that application of the standards for background screening becomes effective; amending s. 409.175, F.S.; redefining the term "personnel" and deleting the definition of the term "screening"; creating s.

409.177, F.S.; providing standards for background screening for child-placing and residential child-caring agencies; providing for denial of a license and exclusion from employment; creating s. 409.1759, F.S.; providing for background screening for summer camp personnel; providing an exception; repealing s. 435.045, F.S., relating to requirements for placement of dependent children; amending s. 937.021, F.S.; providing for the filing of police reports for missing children in the county or municipality where the child was last seen; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 1740** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 2560** was deferred.

On motion by Senator Wise—

SB 118—A bill to be entitled An act relating to persons with disabilities; amending ss. 413.402, 413.4021, F.S., and s. 3 of chapter 2002-286, Laws of Florida; making the pilot program for personal care attendants for spinal cord injury victims permanent; providing criteria for participation in the program; providing an appropriation; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendments which were moved by Senator Wise and adopted:

Amendment 1 (704172)(with title amendment)—On page 2, line 22, delete “pilot” and insert: ~~pilot~~

And the title is amended as follows:

On page 1, line 5, delete “pilot”

Amendment 2 (023642)—On page 5, line 5, delete “circuit court administrator” and insert: *state attorney*

Amendment 3 (343648)—On page 5, between lines 8 and 9, insert:

Section 5. *Paragraph (c) of subsection (10) of section 400.506, Florida Statutes, as created by section 13 of chapter 93-214, Laws of Florida, and as amended by section 10 of chapter 99-332, Laws of Florida, is repealed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 8 and insert: program; providing an appropriation; repealing s. 400.506(10)(c), F.S., relating to monthly visits by a registered nurse; providing

The Committee on Appropriations recommended the following amendment which was moved by Senator Wise and adopted:

Amendment 4 (483150)(with title amendment)—On page 5, lines 3-8, delete all of said lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) delete “providing an appropriation;”

Pursuant to Rule 4.19, **SB 118** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

MOTION

On motion by Senator Fasano, the House was requested to return **CS for SB 1784**.

SPECIAL ORDER CALENDAR, continued

CS for SB 332—A bill to be entitled An act relating to local option fuel taxes on motor fuel and diesel fuel; amending ss. 206.60 and 206.605,

F.S.; including bicycle paths and pedestrian pathways within authorized uses of proceeds of county and municipal taxes on motor fuel; amending s. 336.025, F.S.; expanding the uses of proceeds from local option fuel taxes on motor fuel and diesel fuel; authorizing certain municipalities to expend local option fuel taxes; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 332** to **HB 1813**.

Pending further consideration of **CS for SB 332** as amended, on motion by Senator Saunders, by two-thirds vote **HB 1813** was withdrawn from the Committees on Comprehensive Planning; and Finance and Taxation.

On motion by Senator Saunders—

HB 1813—A bill to be entitled An act relating to county and municipal taxes on motor fuel; amending ss. 206.60 and 206.605, F.S.; including bicycle paths and pedestrian pathways within authorized uses of proceeds of county and municipal taxes on motor fuel; amending s. 336.025, F.S.; expanding the uses of proceeds from local option fuel taxes on motor fuel and diesel fuel; authorizing certain municipalities to expend a certain gas tax; providing an effective date.

—a companion measure, was substituted for **CS for SB 332** as amended and read the second time by title. On motion by Senator Saunders, by two-thirds vote **HB 1813** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fasano	Posey
Alexander	Garcia	Pruitt
Argenziano	Geller	Saunders
Aronberg	Haridopolos	Sebesta
Atwater	Hill	Siplin
Bennett	Jones	Smith
Bullard	Klein	Villalobos
Carlton	Lawson	Wasserman Schultz
Clary	Lee	Webster
Constantine	Lynn	Wilson
Crist	Margolis	Wise
Diaz de la Portilla	Miller	
Dockery	Peaden	

Nays—None

By direction of the President, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Senate resumed consideration of—

CS for SB 2322—A bill to be entitled An act relating to assistance in obtaining prescription drugs; creating s. 430.83, F.S.; providing a popular name; providing definitions; providing legislative findings and intent; creating the Sunshine for Seniors Program to assist low-income seniors with obtaining prescription drugs from manufacturers' pharmaceutical assistance programs; providing implementation and oversight duties of the Department of Elderly Affairs; providing for community partnerships; providing for contracts; requiring annual evaluation reports on the program; specifying that the program is not an entitlement; providing an appropriation and authorizing a position; amending s. 409.904, F.S.; postponing the effective date of changes to standards for eligibility for certain optional medical assistance, including coverage under the medically needy program; providing appropriations; providing for retroactive application; providing effective dates.

—which was previously considered and amended this day. Pending **Senate Amendment 2 (840164)** to **House Amendment 1** by Senator Wasserman Schultz was withdrawn.

RECONSIDERATION OF AMENDMENT

On motion by Senator Peaden, the Senate reconsidered the vote by which **Senate Amendment 1 (302864) to House Amendment 1** was adopted. **Senate Amendment 1 to House Amendment 1** was withdrawn.

Senators Pruitt, Klein, Peaden and Dawson offered the following amendment which was moved by Senator Pruitt and adopted:

Senate Amendment 3 (302324) (with title amendment) to House Amendment 1—On page 1, line 15 through page 8, line 226, delete those lines and insert: On page 1, line 27, through page 6, line 9, remove: all of said lines, and insert:

Section 1. Subsection (2) of section 409.904, Florida Statutes, is amended to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(2) A caretaker relative or parent, a pregnant woman, a child under age 19 who would otherwise qualify for Florida Kidcare Medicaid, a child up to age 21 who would otherwise qualify under s. 409.903(1), a person age 65 or over, or a blind or disabled person, who would otherwise be eligible for Florida Medicaid, except that the income or assets of such family or person exceed established limitations. For a family or person in one of these coverage groups, medical expenses are deductible from income in accordance with federal requirements in order to make a determination of eligibility. Expenses used to meet spend-down liability are not reimbursable by Medicaid. Effective *July May 1, 2003*, when determining the eligibility of a pregnant woman, a child, or an aged, blind, or disabled individual, \$270 shall be deducted from the countable income of the filing unit. When determining the eligibility of the parent or caretaker relative as defined by Title XIX of the Social Security Act, the additional income disregard of \$270 does not apply. A family or person eligible under the coverage known as the “medically needy,” is eligible to receive the same services as other Medicaid recipients, with the exception of services in skilled nursing facilities and intermediate care facilities for the developmentally disabled.

Section 2. *The non-recurring sums of \$8,265,777 from the General Revenue Fund, \$2,505,224 from the Grants and Donations Trust Fund, and \$11,727,287 from the Medical Care Trust Fund are appropriated to the Agency for Health Care Administration to implement section 1 of this act during the 2002-2003 fiscal year.*

Section 3. This act shall take effect upon becoming a law, but if it becomes a law after May 1, 2003, this act shall operate retroactively to that date.

And the title is amended as follows:

On page 9, lines 229-235, delete those lines and insert: On page 1, lines 2-23, remove: all of said lines and insert: An act relating to the medically needy program; amending s. 409.904, F.S.; postponing the effective date of changes to standards for eligibility for certain optional medical assistance, including coverage under the medically needy program; providing appropriations; providing for retroactive application; providing an effective date.

On motion by Senator Peaden, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 2322 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Mr. President	Atwater	Carlton
Alexander	Bennett	Clary
Argenziano	Bullard	Constantine
Aronberg	Campbell	Cowin

Crist	Klein	Sebesta
Dawson	Lawson	Siplin
Diaz de la Portilla	Lee	Smith
Dockery	Lynn	Villalobos
Fasano	Margolis	Wasserman Schultz
Garcia	Miller	Webster
Geller	Peaden	Wilson
Haridopolos	Posey	Wise
Hill	Pruitt	
Jones	Saunders	

Nays—None

CO-SPONSORS

All Senators voting yea, not previously shown as co-sponsors, were recorded as co-sponsors of **CS for SB 2322**.

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

PRIORITY BILL CALENDAR

CS for SB 172—A bill to be entitled An act relating to restrictions on the practice of law; amending s. 454.23, F.S.; increasing the penalty for committing unlicensed practice of law to a third-degree felony; amending s. 454.18, F.S.; deleting provisions prohibiting a sheriff from practicing law in this state; providing an effective date.

—was read the second time by title. On motion by Senator Geller, by two-thirds vote **CS for SB 172** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 642—A bill to be entitled An act relating to the elderly services; amending s. 430.041, F.S.; removing the Director of the Office of Long-Term-Care Policy from the office's advisory council; amending s. 430.07, F.S.; authorizing direct payment to a vendor or prepayment of travel expenses for Department of Elderly Affairs volunteers; amending s. 430.205, F.S., relating to community care for the elderly; providing guidelines for determining the priority of recipients of services; repeal-

ing s. 65 of chapter 2001-45, Laws of Florida relating to the Office of State Long-Term Care Ombudsman Program; providing effective dates.

—was read the second time by title. On motion by Senator Fasano, by two-thirds vote **CS for SB 642** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

On motion by Senator Campbell, by two-thirds vote **HB 1839** was withdrawn from the Committees on Finance and Taxation; and Appropriations.

On motion by Senator Campbell, by two-thirds vote—

HB 1839—A bill to be entitled An act relating to the corporate income tax; amending s. 220.03, F.S.; providing for the adoption of the 2003 version of the Internal Revenue Code; providing for retroactive operation; providing an effective date.

—a companion measure, was substituted for **SB 1002** and by two-thirds vote read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 1839** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 1006—A bill to be entitled An act relating to state employee health insurance; amending s. 110.123, F.S.; revising the terms of coverage and payment for officers and employees participating in state employee group health insurance; amending s. 110.161, F.S.; providing eligibility for state universities in the pretax benefits program; amending s. 1001.74, F.S.; providing eligibility for universities in the pretax benefits program; providing an effective date.

—was read the second time by title. On motion by Senator Wise, by two-thirds vote **CS for CS for SB 1006** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 1298—A bill to be entitled An act relating to specialty license plates; amending s.320.08056, F.S.; creating the Protect Our Reefs license plate; amending s. 320.08058, F.S.; requiring that the license plate use fee from the Florida Arts license plate be transferred directly to the county arts council; providing for the distribution of the annual use fee from the Protect Our Reef license plate received from the sale of such plates; providing for audit by the Auditor General; providing an effective date.

—was read the second time by title. On motion by Senator Carlton, by two-thirds vote **CS for SB 1298** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peadar
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise

Nays—None

CS for SB 1530—A bill to be entitled An act relating to fraud prevention; creating the Fraud Prevention Unit within the Office of the Attorney General to improve and coordinate the state's response to fraud and related crimes; requiring the Fraud Prevention Unit to establish a State-wide Complaint Receipt and Referral Center to collect, refer, and analyze information concerning fraud; specifying goals of the center; specifying responsibilities of the Fraud Prevention Unit; providing requirements for projects supported by the Fraud Prevention Unit; requiring the unit to develop public information programs and establish recommended training curricula; authorizing the Attorney General to use volunteers; providing that volunteers are exempt from liability under the Florida Volunteer Protection Act; requiring the Fraud Prevention Unit to coordinate its investigations with other law enforcement agencies and victim assistance programs; requiring the unit to use services of the Federal Trade Commission; requiring that the unit avoid duplicating services but communicate the availability of those services; providing for the use of donated funds and resources; authorizing state agencies and local businesses to assign employees to assist the unit; authorizing the unit to assist victims in correcting credit reports or other identifying information; prohibiting the unit from providing legal representation to victims of fraud; providing an effective date.

—was read the second time by title. On motion by Senator Villalobos, by two-thirds vote **CS for SB 1530** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

SENATOR KLEIN PRESIDING

CS for SB 1612—A bill to be entitled An act relating to the Chief of Domestic Security Initiatives; amending s. 943.0311, F.S.; providing for security assessments of all buildings, facilities, and structures owned or occupied by state agencies, state universities, and community colleges, by the employees and within existing resources of such state agencies, state universities, or community colleges; requiring completion of initial security assessments by a specified date; providing for subsequent security assessments; providing for reports; requiring the chief to communicate to local governments regarding security assessments of buildings and facilities; providing that costs of security assessments of local government buildings and facilities shall be borne by the local government; providing an effective date.

—was read the second time by title. On motion by Senator Dockery, by two-thirds vote **CS for SB 1612** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for CS for SB 1694** was deferred.

On motion by Senator Webster, by two-thirds vote **HB 773** was withdrawn from the Committees on Transportation; Comprehensive Planning; Governmental Oversight and Productivity; Appropriations Subcommittee on Transportation and Economic Development; and Appropriations.

On motion by Senator Webster—

HB 773—A bill to be entitled An act relating to the Central Florida Regional Transportation Authority; amending s. 343.63, F.S.; revising membership of the governing board of the authority; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1720** and **CS for SB 2572** and read the second time by title. On motion by

Senator Webster, by two-thirds vote **HB 773** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for SB 1742—A bill to be entitled An act relating to trust funds; creating the Transportation Revenue Bond Trust Fund within the Department of Transportation; providing for sources of funds and purposes; providing for use of the end-of-year balance of the trust fund; providing a contingent effective date.

—was read the second time by title. On motion by Senator Sebesta, by two-thirds vote **CS for SB 1742** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for SB 1766—A bill to be entitled An act relating to the Florida Workers' Compensation Insurance Guaranty Association, Incorporated; amending s. 631.913, F.S.; limiting the corporation's obligation for a covered claim for return of unearned premium; amending s. 631.914, F.S.; revising requirements for reporting premium for assessment calculations; amending s. 631.924, F.S.; including insolvent insurers under provisions for a stay of proceedings; providing an effective date.

—was read the second time by title. On motion by Senator Fasano, by two-thirds vote **CS for SB 1766** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Crist	Klein
Argenziano	Dawson	Lawson
Aronberg	Diaz de la Portilla	Lee
Atwater	Dockery	Lynn
Bennett	Fasano	Margolis
Campbell	Garcia	Miller
Carlton	Geller	Peaden
Clary	Haridopolos	Posey
Constantine	Hill	Pruitt
Cowin	Jones	Saunders

Sebesta
Siplin
Smith

Villalobos
Wasserman Schultz
Webster

Wilson
Wise

Smith
Villalobos
Nays—None

Wasserman Schultz
Webster

Wilson
Wise

Nays—1

Bullard

CS for SB 1902—A bill to be entitled An act relating to home inspection services; creating s. 501.935, F.S.; providing requirements relating to home inspection services; providing legislative intent; providing definitions; providing certain inspector qualifications and practice standards; limiting the authority of the Department of Agriculture and Consumer Services to license home inspectors or to impose fees on or file administrative complaints against home inspectors; providing exemptions; requiring, before inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report to the client on the results of the inspection and requiring provision of relevant portions thereof to homeowners under certain circumstances; prohibiting certain acts for which there are civil penalties; providing that failure to comply is a deceptive and unfair trade practice; providing for injunction against use of the title “board-certified home inspector” under certain circumstances and requiring notice thereof to potential clients; providing for the filing of complaints; requiring maintenance of records regarding complaints and compilation of statistics regarding such complaints; providing an effective date.

—was read the second time by title. On motion by Senator Bennett, by two-thirds vote **CS for SB 1902** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for SB 2084—A bill to be entitled An act relating to drug prescriptions; creating s. 456.42, F.S.; requiring written drug prescriptions to be legibly printed or typed, to contain certain information, and to be dated and signed by the prescribing practitioner on the day issued; providing an effective date.

—was read the second time by title. On motion by Senator Wasserman Schultz, by two-thirds vote **CS for SB 2084** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Crist	Lawson
Argenziano	Dawson	Lee
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Bennett	Fasano	Miller
Bullard	Garcia	Peaden
Campbell	Geller	Posey
Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin

SB 2178—A bill to be entitled An act relating to trust funds; creating the Digital Divide Trust Fund in the State Technology Office; providing for sources of moneys and purposes; providing for administration of the fund; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title. On motion by Senator Crist, by two-thirds vote **SB 2178** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for CS for SB 2216—A bill to be entitled An act relating to a public-records exemption for proprietary confidential business information owned or controlled by the H. Lee Moffitt Cancer Center and Research Institute; amending s. 1004.43, F.S.; expanding the public-records exemption for proprietary confidential business information to include specified materials, potential trade secrets, potentially patentable material, or proprietary information received, generated, ascertained, or discovered during the course of research; expanding the public-records exemption to include information received from another state or nation or the Federal Government which is otherwise confidential or exempt pursuant to the laws of that state or nation or pursuant to federal law; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

—was read the second time by title. On motion by Senator Miller, by two-thirds vote **CS for CS for SB 2216** was read the third time by title, passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for CS for SB 2520—A bill to be entitled An act relating to the Beverage Law; amending s. 561.19, F.S.; providing procedures for issu-

ance of a license that becomes available because of a revocation; amending s. 561.422, F.S.; revising requirements for issuance of a temporary permit to certain civic organizations; requiring presentation of building and zoning permit; requiring net profits to be retained by the civic organization; amending s. 561.65, F.S.; providing procedures for enforcement of a perfected security interest in a quota license prior to reissuance of the quota license; amending s. 562.11, F.S.; providing a popular name; prohibiting the service of alcoholic beverages to any minor employed by a licensed vendor; providing a penalty; reenacting s. 561.706, F.S., for the purpose of incorporating the amendment to s. 562.11, F.S., in reference thereto; providing an effective date.

—was read the second time by title. On motion by Senator Diaz de la Portilla, by two-thirds vote **CS for CS for SB 2520** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

SB 2802—A bill to be entitled An act relating to military student education; directing the Department of Education to assist in the transition of dependents of military personnel into the public school system; requiring a report; providing an effective date.

—was read the second time by title. On motion by Senator Haridopolos, by two-thirds vote **SB 2802** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for CS for SB 1694—A bill to be entitled An act relating to insurance fraud; providing a short title; amending s. 624.155, F.S.; providing a civil remedy for consumers against unauthorized insurers for unpaid claims; amending s. 624.310, F.S.; prohibiting certain persons under disciplinary sanctions from participating in the insurance business; providing penalties; amending s. 624.401, F.S.; providing criminal penalties for an entity transacting insurance without a certificate of authority; amending s. 629.989, F.S.; revising provisions governing the powers of arrest of the investigators of the Division of Insurance Fraud; creating s. 817.413, F.S.; prohibiting certain sales of used motor vehicle goods as new; providing penalties; amending s. 860.15, F.S.; increasing the penalty for certain overcharges for motor vehicle repairs or parts; amending s. 921.0022, F.S.; revising the offense severity ranking chart

of the Criminal Punishment Code to reflect changes in penalties; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Posey, by two-thirds vote **CS for CS for SB 1694** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

SPECIAL ORDER CALENDAR, continued

On motion by Senator Fasano—

SB 594—A bill to be entitled An act relating to motor vehicle insurance; amending s. 627.7283, F.S.; requiring an insurer to refund the entire unearned premium to any member of the armed services who cancels a policy under certain circumstances; providing an effective date.

—was read the second time by title.

The Committee on Military and Veterans' Affairs, Base Protection, and Spaceports recommended the following amendment which was moved by Senator Fasano and adopted:

Amendment 1 (563420)—On page 1, lines 11-26, delete those lines and insert:

Section 1. Subsection (5) is added to section 627.7283, Florida Statutes, to read:

627.7283 Cancellation; return of premium.—

(5) *The insurer must refund 100 percent of the unearned premium if the insured is a member of the United States Armed Forces, whether an active or reserve member, who cancels because he or she is called to active duty or transferred by the United States Armed Forces to a location where the insurance is not required. The insurer may require a member of the United States Armed Forces to submit either a copy of the official military orders or a written verification signed by the member's commanding officer to support the refund authorized under this subsection. If the insurer cancels, the insurer must refund 100 percent of the unearned premium. Cancellation is without prejudice to any claim originating prior to the effective date of the cancellation. For purposes of this section, unearned premiums must be computed on a pro rata basis.*

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Fasano and failed:

Amendment 2 (983742)—On page 1, line 19, after "member," insert: *or a member of the Florida National Guard,*

Pursuant to Rule 4.19, **SB 594** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Lynn—

CS for CS for CS for SB 194—A bill to be entitled An act relating to child care facilities; amending s. 402.3055, F.S.; requiring a signed affidavit attesting to the accuracy of certain information provided by an applicant for a child care facility license; amending s. 402.310, F.S.; requiring the Department of Children and Family Services to establish

and impose uniform penalties relating to child care facility violations; requiring implementation not contingent upon an appropriation; creating s. 402.3105, F.S.; requiring the department to establish a database of information relating to violations, citations, and penalties imposed against child care facilities regulated by the state; requiring the Department of Children and Family Services to consult and meet the requirements of the State Technology Office; specifying database capabilities and uses of information contained therein; requiring implementation not contingent upon an appropriation; directing the Department of Children and Family Services to adopt a rule defining child care; providing for the transfer of the Child Care Program from the Department of Children and Family Services to the Department of Health; providing effective dates.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 194** was placed on the calendar of Bills on Third Reading.

On motion by Senator Garcia—

SB 1336—A bill to be entitled An act relating to trust funds; creating s. 403.185, F.S.; creating the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund to be administered by the Department of Community Affairs; providing sources of funds; providing purposes and administrative provisions with respect to such purposes; providing rulemaking authority for such administrative provisions; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing for termination of the trust fund following removal of the area of critical state concern designation from the Florida Keys and Key West Areas; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources recommended the following amendment which was moved by Senator Garcia and adopted:

Amendment 1 (541154)—On page 3, delete line 5 and insert: *shall prioritize ready-to-proceed local government projects for the purpose of*

Pursuant to Rule 4.19, **SB 1336** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano—

CS for SB 1210—A bill to be entitled An act relating to tourism; amending s. 288.1223, F.S.; increasing the membership of the Florida Commission on Tourism to include a representative from the space tourism industry and a representative from the youth travel industry; amending s. 288.1226, F.S.; increasing the membership of the board of directors of the Florida Tourism Industry Marketing Corporation, to conform; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1210** was placed on the calendar of Bills on Third Reading.

On motion by Senator Bennett—

CS for CS for SB 1450—A bill to be entitled An act relating to emergency communications; amending s. 365.172, F.S.; defining the terms “active prepaid wireless telephone,” “mobile telephone number,” “prepaid wireless telephone service,” and “sufficient positive balance” for purposes of wireless emergency communications; prescribing additional duties of the board of directors of the Wireless 911 Board with respect to 911 and E911 systems; prescribing a method of collecting the wireless E911 fee in instances in which the wireless telephone service to which the surcharge applies is prepaid; providing for colocation of wireless telecommunications facilities; providing for location of such facilities on government buildings; providing schedules for government response to permit applications; amending s. 365.173, F.S.; authorizing disbursements from the Wireless Emergency Telephone System Fund for activities of the board of directors of the Wireless 911 Board; creating s.

365.175, F.S.; requiring new private branch exchange telephone systems to have automatic location identification capabilities; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for CS for SB 1450** to **HB 1307**.

Pending further consideration of **CS for CS for SB 1450** as amended, on motion by Senator Bennett, by two-thirds vote **HB 1307** was withdrawn from the Committees on Communication and Public Utilities; Comprehensive Planning; Finance and Taxation; Appropriations Subcommittee on General Government; and Appropriations.

On motion by Senator Bennett, by two-thirds vote—

HB 1307—A bill to be entitled An act relating to emergency communications; amending s. 365.172, F.S.; defining the terms “active prepaid wireless telephone,” “mobile telephone number,” “prepaid wireless telephone service,” and “sufficient positive balance” for purposes of wireless emergency communications; revising authority of the board; prescribing additional duties of the board of directors of the Wireless 911 Board with respect to 911 and E911 systems; revising procedures for securing accounting services; prescribing a method of collecting the wireless E911 fee in instances in which the wireless telephone service to which the surcharge applies is prepaid; exempting certain colocated facilities from specified land development regulations under described circumstances; providing for certification to local governments of compliance with certain federal regulations; providing for local government approval of applications for permits for new or colocated wireless communications facilities; providing procedures and timeframes; providing for waiver of timeframes; specifying permitted use and activity for certain additional facilities; providing for the Department of Management Services and the Department of Transportation to negotiate leases of state-owned property for certain wireless telecommunications facilities; authorizing said departments to adopt rules; providing for report to the board and the county of certain delays in locating facilities; providing for a subcommittee to make recommendations to the board and certain identified local governments regarding compliance with federal Phase II E911 service requirements; providing for report of such recommendations to the Governor and the Legislature; amending s. 365.173, F.S.; authorizing disbursements from the Wireless Emergency Telephone System Fund for activities of the board of directors of the Wireless 911 Board; creating s. 365.175, F.S.; providing definitions; requiring new private branch exchange telephone systems to have automatic location identification capabilities; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1450** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1307** was placed on the calendar of Bills on Third Reading.

On motion by Senator Wasserman Schultz—

SB 222—A bill to be entitled An act relating to infant cribs; creating s. 501.144, F.S., the Florida Infant Crib Safety Act; providing definitions; prohibiting commercial users from manufacturing, remanufacturing, retrofitting, selling, contracting to sell or resell, leasing, or subletting specified cribs determined to be unsafe for use by infants; prohibiting transient public lodging establishments from offering or providing for use specified cribs determined to be unsafe for use by infants; providing criteria for determining safety of infant cribs; providing exemptions; providing specified immunity from civil liability; providing penalties; providing that violation of the act constitutes an unfair and deceptive trade practice; authorizing the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, and the Department of Children and Family Services to collaborate with public agencies and private-sector entities to prepare specified public education materials and programs; authorizing the Department of Agriculture and Consumer Services to adopt rules and prescribe forms; amending s. 509.221, F.S.; prohibiting the use of certain cribs in public lodging establishments; reenacting s. 509.032, F.S.; providing for regulation and rulemaking by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; creating s. 402.3031, F.S.; prohibiting unsafe cribs in certain facilities; providing for

enforcement and rulemaking powers of the Department of Children and Family Services; creating an infant crib safety enforcement demonstration program; providing that crib inspections are not required in certain counties for a specified time; requiring crib inspections in certain counties for a specified time; providing requirements for crib inspections by the Department of Business and Professional Regulation; requiring transient public lodging establishments to provide for inspection of cribs; requiring a report; providing for rulemaking by the Department of Business and Professional Regulation; providing for expiration of the demonstration program; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 222** was placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

CS for SB 1824—A bill to be entitled An act relating to subdivision property; amending s. 197.502, F.S.; increasing the fee for tax deed applications; providing notification to legal titleholders of contiguous property which is included in a tax certificate for unpaid taxes; amending s. 197.502, F.S.; providing for notification to the legal titleholder of lands contiguous to land available for taxes prior to the sale of said lands; amending s. 197.582, F.S., to exclude from the requirement for the clerk of court to retain certain fund balances above those required to satisfy tax liens those titleholders receiving notice pursuant to s. 197.502, F.S.; creating a prohibition of the assessment of an ad valorem tax or non-ad valorem assessment by certain entities against property constituting the common elements of a subdivision; requiring that the property appraiser prorate the value of taxes and special assessments against recreational facilities, easements, and other common elements of a subdivision and include such prorated value among the lots within the subdivision conveyed or intended to be conveyed into private ownership; defining the term “common element” for purposes of this act; amending s. 197.522, F.S.; requiring the clerk to give notice to certain individuals, by certified mail with return receipt requested or by registered mail, that the application for tax deed has been made; providing that such notice be mailed 20 days prior to the date of sale; providing for no notice in certain circumstances; creating a requirement for the clerk of court to give certain prior notice to persons listed in the tax collector’s statement regarding proposed sale of tax delinquent properties; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Sebesta, the rules were waived to allow the following amendment to be considered:

Senator Sebesta moved the following amendment which was adopted:

Amendment 1 (865756)(with title amendment)—On page 3, line 4 through page 7, line 2, delete those lines and insert:

(h) Any legal titleholder of record of property that is contiguous to the property described in the tax certificate, when the property described is either submerged land or common elements of a subdivision, if the address of the titleholder of contiguous property appears on the record of conveyance of the land to that legal titleholder. However, if the legal titleholder of property contiguous to the property described in the tax certificate is the same as the person to whom the property described in the tax certificate was assessed on the tax roll for the year in which the property was last assessed, the notice may be mailed only to the address of the legal titleholder as it appears on the latest assessment roll.

(7) On county-held certificates for which there are no bidders at the public sale, the clerk shall enter the land on a list entitled “lands available for taxes” and shall immediately notify the county commission and all other persons holding certificates against the land that the land is available. During the first 90 days after the land is placed on the list of lands available for taxes, the county may purchase the land for the opening bid. Thereafter, any person, the county, or any other governmental unit may purchase the land from the clerk, without further notice or advertising, for the opening bid, except that when the county or other governmental unit is the purchaser for its own use, the board

of county commissioners may cancel omitted years’ taxes, as provided under s. 197.447. *If the county does not elect to purchase the land, the county must notify each legal titleholder of property contiguous to the land available for taxes, as provided in paragraph (4)(h), before expiration of the 90-day period.* Interest on the opening bid continues to accrue through the month of sale as prescribed by s. 197.542.

Section 2. Subsection (2) of section 197.582, Florida Statutes, is amended to read:

197.582 Disbursement of proceeds of sale.—

(2) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the excess shall be paid over and disbursed by the clerk. If the property purchased is homestead property and the statutory bid includes an amount equal to at least one-half of the assessed value of the homestead, that amount shall be treated as excess and distributed in the same manner. The clerk shall distribute the excess to the governmental units for the payment of any lien of record held by a governmental unit against the property. In the event the excess is not sufficient to pay all of such liens in full, the excess shall then be paid to each governmental unit pro rata. If, after all liens of record of the governmental units upon the property are paid in full, there remains a balance of undistributed funds, the balance of the purchase price shall be retained by the clerk for the benefit of the persons described in s. 197.522(1)(a), *except those persons described in s. 197.502(4)(h)*, as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit. Any service charges, at the same rate as prescribed in s. 28.24(13), and costs of mailing notices shall be paid out of the excess balance held by the clerk. Excess proceeds shall be held and disbursed in the same manner as unclaimed redemption moneys in s. 197.473. In the event excess proceeds are not sufficient to cover the service charges and mailing costs, the clerk shall receive the total amount of excess proceeds as a service charge.

Section 3. Subsection (2) of section 197.522, Florida Statutes, is amended to read:

197.522 Notice to owner when application for tax deed is made.—

(2)(a) In addition to the notice provided in subsection (1), the sheriff of the county in which the legal titleholder resides shall, at least 20 days prior to the date of sale, notify the legal titleholder of record of the property on which the tax certificate is outstanding. The original notice and sufficient copies shall be prepared by the clerk and provided to the sheriff. Such notice shall be served as specified in chapter 48; if the sheriff is unable to make service, he or she shall post a copy of the notice in a conspicuous place at the legal titleholder’s last known address. The inability of the sheriff to serve notice on the legal titleholder shall not affect the validity of the tax deed issued pursuant to the notice. A legal titleholder of record who resides outside the state may be notified by the clerk as provided in subsection (1). The notice shall be in substantially the following form:

WARNING

There are unpaid taxes on the property which you own. The property will be sold at public auction on ... (date) ... unless the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court at ... (address) ..., ... (telephone number)

In addition, if the legal titleholder does not reside in the county in which the property to be sold is located, a copy of such notice shall be posted in a conspicuous place on the property by the sheriff of the county in which the property is located. However, no posting of notice shall be required if the property to be sold is classified for assessment purposes, according to use classifications established by the department, as nonagricultural acreage or vacant land.

(b) In addition to the notice provided in subsection (1), the clerk shall notify by certified mail with return receipt requested, or by registered mail if the notice is to be sent outside the continental United States, the persons listed in the tax collector’s statement pursuant to s. 197.502(4)(h) that application for a tax deed has been made. Such notice shall be mailed at least 20 days prior to the date of sale. If no address is listed in the tax collector’s statement, then no notice shall be required. Enclosed

with the copy of the notice shall be a statement in substantially the following form:

WARNING

There are unpaid taxes on property contiguous to your property. The property with the unpaid taxes will be sold at auction on ... (date) ... unless the back taxes are paid. To make payment, or to receive further information about the purchase of the property, contact the clerk of court immediately at ... (address) ..., ... (telephone number)

Neither the failure of the tax collector to include the list of contiguous property owners pursuant to s. 197.502(4)(h) in his or her statement to the clerk nor the failure of the clerk to mail this notice to any or all of the persons listed in the tax collector's statement pursuant to s. 197.502(4)(h) shall be a basis to challenge the validity of the tax deed issued pursuant to any notice under s. 197.522.

Section 4. *Ad valorem taxes and non-ad valorem assessments against subdivision property.—*

(1) Ad valorem taxes and non-ad valorem assessments shall be assessed against the lots within a platted residential subdivision and not upon the subdivision property as a whole. An ad valorem tax or non-ad valorem assessment, including a tax or assessment imposed by a county, municipality, special district, or water management district, may not be assessed separately against common elements utilized exclusively for the benefit of lot owners within the subdivision, regardless of ownership. The value of each parcel of land that is or has been part of a platted subdivision and that is designated on the plat or the approved site plan as a common element for the exclusive benefit of lot owners shall, regardless of ownership, be prorated by the property appraiser and included in the assessment of all the lots within the subdivision which constitute inventory for the developer and are intended to be conveyed or have been conveyed into private ownership for the exclusive benefit of lot owners within the subdivision.

(2) As used in this section, the term "common element" includes:

(a) Subdivision property not included within lots constituting inventory for the developer which are intended to be conveyed or have been conveyed into private ownership.

(b) An easement through the subdivision property, not including the property described in paragraph (a), which has been dedicated to the public or retained for the benefit of the subdivision.

(c) Any other part of the subdivision which has been designated on the plat or is required to be designated on the site plan as a drainage pond, or detention or retention pond, for the exclusive benefit of the subdivision.

And the title is amended as follows:

On page 1, line 4, after "applications" insert: a tax deed application fee; providing notification to legal titleholders of contiguous property which is included in a tax certificate for unpaid taxes; requiring a county to notify the legal titleholder of property contiguous to land available for taxes prior to sale under certain circumstances; amending s. 197.582, F.S.; excluding certain persons as beneficiaries of certain undistributed remainder funds; amending s. 197.522, F.S.; requiring notification to certain persons when an application for a tax deed is made; providing for a statement to accompany such notice; prohibiting the assessment of ad valorem taxes and non-ad valorem assessments by certain entities against property constituting the common elements of a subdivision; requiring that the property appraiser prorate the value of ad valorem taxes and non-ad valorem assessments against easements and other common elements of a subdivision and include such prorated value among the lots within the subdivision conveyed or intended to be conveyed into private ownership; defining the term "common element";

Pursuant to Rule 4.19, **CS for SB 1824** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

By direction of the President, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

CS for SB 2364—A bill to be entitled An act relating to insurance; amending s. 627.4035, F.S.; providing for the payment of insurance premiums by a debit or credit card, automatic electronic funds transfer, or payroll deduction plan; amending s. 627.7015, F.S.; defining "claim" for purposes of alternative procedures for resolution of disputed property insurance claims; amending s. 627.901, F.S.; revising the limits on premium financing service charges; amending s. 626.9541, F.S.; clarifying certain activities that constitute illegal dealings in premiums; prohibiting insurers from refusing to insure solely because the insured or applicant is a public official; amending s. 631.913, F.S.; limiting the obligation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated for a covered claim for return of unearned premium; amending s. 631.914, F.S.; revising requirements for reporting premium for assessment calculations; amending s. 631.924, F.S.; including insolvent insurers under provisions for a stay of proceedings; amending s. 624.406, F.S.; providing for reinsurance under a workers' compensation insurance policy; amending s. 624.603, F.S.; providing an exception to include workers' compensation coverages under health insurance; amending s. 631.141, F.S.; providing for trust funds to be transferred to the receiver in delinquency proceedings to pay for unreimbursed expenses; amending ss. 624.04, 624.303, 624.313, 624.317, 624.504, 624.506, 624.521, 626.022, 626.112, 626.733, 626.7354, 626.741, 626.753, 626.829, 634.171, 634.420, 642.034, 642.036, and 642.045, F.S.; deleting references to solicitors to conform to prior deletions; amending ss. 624.34, 626.202, and 626.601, F.S.; revising certain fingerprinting requirements; amending s. 624.501, F.S.; providing for a fee for certain late appointment filings; amending s. 626.015, F.S.; deleting a definition of administrative agent; amending s. 626.171, F.S.; revising applicant address requirements; specifying required background investigation information; amending ss. 626.175, 626.7355, 626.731, 626.831, 626.8414, 626.865, 626.866, 626.867, 626.874, 626.9916, 648.34, and 648.355, F.S.; revising licensure eligibility criteria to specify United States citizenship or certain legal alien status; providing for the adoption of rules; amending s. 626.201, F.S.; revising certain fingerprint requirements; amending s. 626.221, F.S.; revising appointment application filing time period requirements; amending s. 626.2815, F.S.; requiring certain continuing education hour and subject requirements; deleting references to solicitors to conform to prior deletions; revising a continuing education board member title; amending s. 626.2816, F.S.; revising a cross-reference; clarifying a continuing education requirement; amending s. 626.2817, F.S.; deleting a preclosure rule requirement; amending s. 626.311, F.S.; providing for the appointment of certain licensees; amending s. 626.321, F.S.; deleting references to solicitors to conform to prior deletions; providing for one application for a license and payment of applicable fees; amending s. 626.322, F.S.; clarifying the effect of insurer authorization of effectuation of certain appointments; amending s. 626.341, F.S.; including a department-designated person to administer appointment processes for certain appointment-related actions; amending s. 626.371, F.S.; providing requirements for submittal and effective date of appointments; imposing a delinquent fee for certain notification failures; providing fee payment requirements; amending s. 626.381, F.S.; including a department-designated person to administer appointment processes for certain appointment-related actions; providing for a fee for certain late appointment filings; amending s. 626.451, F.S.; including a department-designated person to administer appointment processes for certain appointment-related actions; clarifying the effect of insurer authorization of effectuation of certain appointments; requiring licensee notification of the department of certain criminal proceedings; amending s. 626.461, F.S.; including a department-designated person to administer appointment processes for certain appointment-related actions; deleting references to solicitors to conform to prior deletions; amending s. 626.471, F.S.; including a department-designated person to administer appointment processes for certain appointment-related actions; providing for termination of certain appointments; requiring notice of termination; amending s. 626.843, F.S.; revising procedures for renewing title insurance agent appointments; amending s. 626.7315, F.S.; providing an exception to a prohibition against certain individuals receiving money on account of or for an insurer; amending ss. 626.732, 626.7851, 626.8311, and 626.8417, F.S.; revising certain education subject requirements; amending s. 626.7351, F.S.; revising licensure eligibility criteria to specify United States citizenship or certain legal alien status; revising certain education subject requirements; providing additional education course requirements; amending s. 626.785, F.S.; revising licensure eligibility criteria to specify United States citizenship or certain legal alien status; increasing the amount of coverage for burial-related expenses that may be sold by a life insurance agent under contract with a funeral

establishment; amending s. 626.797, F.S.; revising an association title; amending s. 626.869, F.S.; deleting a provision relating to limited licenses for certain adjusters; revising certain education requirements; amending s. 626.878, F.S.; specifying implementation requirements for the department's ethics rules; amending s. 626.9541, F.S.; revising sliding as an unfair method of competition and unfair or deceptive act or practice; amending s. 632.634, F.S.; specifying registration of a society only upon department request; amending s. 627.7295, F.S.; revising the per-policy fees that general lines agents may charge on certain policies; amending s. 648.27, F.S.; imposing a delinquent fee for certain notification failures; providing fee payment requirements; deleting obsolete runner references; amending s. 648.382, F.S.; clarifying the effect of insurer authorization of effectuation of certain appointments; imposing a delinquent fee for certain notification failures; providing fee payment requirements; amending s. 648.383, F.S.; including a department-designated person to administer appointment processes for certain appointment-related actions; providing for a fee for certain late appointment filings; amending s. 648.50, F.S.; deleting obsolete runner references; repealing s. 626.032, F.S., relating to continuing education and required designation of administrative agents; repealing s. 626.361, F.S., relating to the effective date of appointments; amending s. 324.032, F.S.; providing requirements with respect to vehicle liability insurance for persons operating for-hire passenger vehicles; providing an effective date.

—as amended April 29 was read the third time by title.

Senator Diaz de la Portilla moved the following amendment which was adopted by two-thirds vote :

Amendment 1 (134728)(with title amendment)—On page 65, line 30 through page 66, line 14, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 4, lines 12-14, delete those lines and insert: department request; amending

MOTION

On motion by Senator Margolis, the rules were waived to allow the following amendment to be considered:

Senator Margolis moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (750296)(with title amendment)—On page 77, between lines 22 and 23, insert:

Section 82. Subsection (5) of section 626.869, Florida Statutes, is amended to read:

626.869 License, adjusters.—

(5)(a) Any person holding a license for 24 consecutive months or longer and who engages in adjusting workers' compensation insurance must, beginning in their birth month and every 2 years thereafter, have completed 24 hours of courses, 2 hours of which relate to ethics, in subjects designed to inform the licensee regarding the current workers' compensation laws of this state, so as to enable him or her to engage in business as a workers' compensation insurance adjuster fairly and without injury to the public and to adjust all claims in accordance with the policy or contract and the workers' compensation laws of this state.

(b) Any individual holding a license as a public adjuster for 24 consecutive months or longer, beginning in their birth month and every 2 years thereafter, must have completed 24 hours of courses, 2 hours of which relate to ethics, in subjects designed to inform the licensee regarding the current laws of this state pertaining to all lines of insurance other than life and annuities, so as to enable him or her to engage in business as an adjuster fairly and without injury to the public and to adjust all claims in accordance with the policy or contract and laws of this state.

(c) In order to qualify as an eligible course under this subsection, the course must:

1.(a) Have a course outline approved by the department.

2.(b) Be taught at a school training facility or other location approved by the department.

3.(e) Be taught by instructors with at least 5 years of experience in the area of workers' compensation, general lines of insurance, or other persons approved by the department. However, a member of The Florida Bar is exempt from the 5 years' experience requirement.

4.(d) Furnish the attendee a certificate of completion. The course provider shall send a roster to the department in a format prescribed by the department.

(d) *The Financial Services Commission shall adopt rules necessary to implement and administer the continuing education requirements of this subsection.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 6, line 5, after the semicolon (;) insert: amending s. 626.869, F.S.; requiring continuing education for public adjusters; providing requirements; requiring the Financial Services Commission to adopt rules;

MOTION

On motion by Senator Pruitt, the rules were waived to allow the following amendment to be considered:

Senator Pruitt moved the following amendment which was adopted by two-thirds vote:

Amendment 3 (974192)—On page 17, line 14, after "Officer" insert: *and the Legislative Budget Commission*

On motion by Senator Diaz de la Portilla, **CS for SB 2364** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peadar
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

SPECIAL ORDER CALENDAR, continued

On motion by Senator Fasano—

CS for CS for SB 2390—A bill to be entitled An act relating to controlled substances; creating s. 831.311, F.S.; prohibiting the sale, manufacture, alteration, delivery, uttering, or possession of counterfeit-resistant prescription blanks for controlled substances; providing penalties; amending s. 893.04, F.S.; providing additional requirements for the dispensing of a controlled substance listed in Schedule II, Schedule III, or Schedule IV; providing rulemaking authority to the Board of Pharmacy; creating s. 893.055, F.S.; requiring the Department of Health to establish an electronic system to monitor the prescribing of controlled substances listed in Schedule II, Schedule III, and Schedule IV; requiring the dispensing of such controlled substances to be reported through the system; providing exceptions; providing reporting requirements; providing penalties; providing rulemaking authority to the department; requiring the department to cover all costs for the system; providing for an appropriation, subject to availability of funds; providing that a certain trust fund may not be used to fund the program; creating s. 893.065, F.S.; requiring the department to develop and adopt by rule the form and content for a counterfeit-proof prescription blank for voluntary use by

physicians to prescribe a controlled substance listed in Schedule II, Schedule III, or Schedule IV; providing an appropriation and authorizing positions; providing contingent applicability of penalties; providing contingent effective dates.

—was read the second time by title.

Senator Jones moved the following amendments which were adopted:

Amendment 1 (391522)(with title amendment)—On page 2, line 8, insert:

Section 1. James and Esther King Center for Universal Research to Eradicate Disease.—

(1) *The Legislature finds that an estimated 128 million Americans suffer from acute, chronic, and degenerative diseases and that biomedical research is the key to finding cures for these diseases that negatively affect all Floridians. The Legislature further finds that, while there is much research being conducted throughout this state and throughout the world, there is a lack of coordination of efforts among researchers. The Legislature, therefore, finds that there is a significant need for a coordinated effort if the goal of curing disease is to be achieved. Moreover, the Legislature finds that the biomedical technology sector meets the criteria of a high-impact sector, pursuant to section 288.108, Florida Statutes, having a high importance to this state's economy with a significant potential for growth and contribution to our universities and quality of life.*

(2) *It is the intent of the Legislature that Florida strive to become the nation's leader in biomedical research and commit itself to being the state to find cures for the most deadly and widespread diseases. It is further the intent of the Legislature that there be a coordinated effort among the state's public and private universities and the biomedical industry to discover such cures. Moreover, it is the intent of the Legislature to expand the state economy by attracting biomedical researchers and research companies to this state.*

(3) *There is established the James and Esther King Center for Universal Research to Eradicate Disease, which shall be known as the "CURED."*

(a) *The purpose of the center is to coordinate, improve, expand, and monitor all biomedical research programs within the state, facilitate funding opportunities, and foster improved technology transfer of research findings into clinical trials and widespread public use.*

(b) *The goal of the center is to find cures for diseases such as cancer, heart disease, lung disease, diabetes, and neurological disorders, including Alzheimer's disease, epilepsy, and Parkinson's disease.*

(c) *The center shall hold an annual biomedical technology summit in Florida to which biomedical researchers, biomedical technology companies, business incubators, pharmaceutical manufacturers, and others around the nation and world are invited to share biomedical research findings in order to expedite the discovery of cures. Summit attendees will be required to cover the costs of such attendance or obtain sponsorship for such attendance.*

(d) *The center shall encourage clinical trials in this state on research that holds promise of curing a disease or condition. The center shall facilitate partnerships between researchers, treating physicians, and community hospitals for the purpose of sharing new techniques and new research findings, as well as coordinating voluntary donations to ensure an adequate supply of adult stem cells or cord blood.*

(e) *The center shall also encourage the discovery and production in Florida of vaccines that prevent disease.*

(f) *The center shall monitor the supply and demand needs of researchers relating to stem cell research and other types of human tissue research. If the center determines that there is a need for increased donation of human tissue, it shall notify hospitals licensed pursuant to chapter 395, Florida Statutes, that have entered into partnership agreements with research institutes conducting stem cell research located in the same geographic region as the researchers demanding the stem cells or other tissues. Such hospitals shall then implement programs that encourage voluntary donations of cord blood or other needed adult tissue.*

(g) *The center shall be funded through private, state, and federal sources.*

(h) *The center shall serve as a registry of all known biomedical grant opportunities and may assist any public or private biomedical research program in this state in preparing grant requests.*

(i) *The center shall maintain a website with links to peer-reviewed biomedical research. The website shall also contain a list of all known biomedical research being conducted in Florida and shall facilitate communication among researchers and other interested parties.*

(j) *The center shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 15 which contains recommendations for legislative change necessary to foster a positive climate for biomedical research in this state.*

(k) *The duties of the center may be outsourced by the Department of Health to a private entity or state university.*

(4) *There is established within the center an advisory council which shall meet at least annually.*

(a) *The council shall consist of the members of the board of directors of the Florida Research Consortium and at least one representative from:*

1. *The Emerging Technology Commission.*
2. *Enterprise Florida, Inc.*
3. *BioFlorida.*
4. *The Florida Biomedical Research Advisory Council.*
5. *The Florida Medical Foundation.*
6. *Pharmaceutical Research and Manufacturers of America.*

(b) *Members of the council shall serve without compensation and each organization represented shall cover all expenses of its representative.*

Section 2. Paragraphs (a) and (b) of subsection (1), subsection (2), and paragraph (f) of subsection (10) of section 215.5602, Florida Statutes, are amended to read:

215.5602 Florida Biomedical Research Program.—

(1) *There is established within the Department of Health the Florida Biomedical Research Program funded by the proceeds of the Lawton Chiles Endowment Fund pursuant to s. 215.5601. The purpose of the Florida Biomedical Research Program is to provide an annual and perpetual source of funding in order to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. The long-term goals of the program are to:*

(a) *Improve the health of Floridians by researching better prevention, diagnoses, and treatments, and cures for cancer, cardiovascular disease, stroke, and pulmonary disease.*

(b) *Expand the foundation of biomedical knowledge relating to the prevention, diagnosis, and treatment, and cure of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.*

(2) *Funds appropriated for the Florida Biomedical Research Program shall be used exclusively for the award of grants and fellowships as established in this section; for research relating to the prevention, diagnosis, and treatment, and cure of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease; and for expenses incurred in the administration of this section. Priority shall be granted to research designed to prevent or cure disease.*

(10) *The council shall submit an annual progress report on the state of biomedical research in this state to the Governor, the Secretary of Health, the President of the Senate, and the Speaker of the House of Representatives by February 1. The report must include:*

(f) *Progress in the prevention, diagnosis, and treatment, and cure of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.*

Section 3. *Florida Cancer Research Cooperative.*—

(1) *Effective July 1, 2003, the Florida Cancer Research Cooperative is established for the purpose of making the State of Florida a world class center for cancer research.*

(2)(a) *A not-for-profit corporation, acting as an instrumentality of the Florida Dialogue on Cancer, shall be organized for the purpose of governing the affairs of the cooperative.*

(b) *The Florida Cancer Research Cooperative, Inc., may create not-for-profit corporate subsidiaries to fulfill its mission. The not-for-profit corporation and its subsidiaries are authorized to receive, hold, invest, and administer property and any moneys acquired from private, local, state, and federal sources, as well as technical and professional income generated or derived from the mission-related activities of the cooperative.*

(c) *The affairs of the not-for-profit corporation shall be managed by a board of directors which shall consist of:*

1. *The Secretary of the Department of Health or his or her designee;*
2. *The Chief Executive Officer of the H. Lee Moffitt Cancer Center or his or her designee;*
3. *The President of the University of Florida Shands Cancer Center or his or her designee;*
4. *The Chief Executive Officer of the University of Miami Sylvester Comprehensive Cancer Center or his or her designee;*
5. *The Chief Executive Officer of the Mayo Clinic, Jacksonville or his or her designee;*
6. *The Chief Executive Officer of the American Cancer Society, Florida Division or his or her designee;*
7. *The President of the American Cancer Society, Florida Division Board of Directors or his or her designee;*
8. *The President of the Florida Society of Clinical Oncology or his or her designee;*
9. *The Chief Executive Officer of Enterprise Florida, Inc., or his or her designee;*
10. *Three representatives from large Florida hospitals or institutions, not delineated in subparagraphs 1. through 6., that treat a large volume of cancer patients. One shall be appointed by the Governor, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the President of the Senate;*
11. *Three representatives from community-based, statewide organizations serving populations that experience cancer disparities, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the President of the Senate;*
12. *One member of the Florida House of Representatives, to be appointed by the Speaker of the House of Representatives;*
13. *One member of the Florida Senate, to be appointed by the President of the Senate;*
14. *Three university presidents, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the President of the Senate; and*
15. *Five representatives from other statewide public health organizations whose missions include public education and the eradication of cancer, three of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the President of the Senate.*

(d) *Appointments made by the Speaker of the House of Representatives and the President of the Senate pursuant to paragraph (c) shall be for 2-year terms, concurrent with the bienniums in which they serve as presiding officers.*

(e) *Appointments made by the Governor pursuant to paragraph (c) shall be for 2-year terms, although the Governor may reappoint directors.*

(f) *Members of the board of directors of the not-for-profit corporation or any subsidiaries shall serve without compensation.*

(3) *The cooperative shall issue an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, by December 15 of each year, with policy and funding recommendations regarding cancer research capacity in Florida and related issues.*

Section 4. *Florida Cancer Research Cooperative; mission and duties.*—

(1) *The cooperative shall develop and centralize the processes and shared services for expanding cancer research in Florida through:*

(a) *Support through bioinformatics, in order to create a cancer informatics infrastructure that enhances information and resource exchange and integration through researchers working in diverse disciplines to facilitate the full spectrum of cancer investigations;*

(b) *Technical coordination, business development, and support of intellectual property;*

(c) *Development of a statewide cancer clinical trials network as contemplated in section 1; and*

(d) *Other multidisciplinary research support activities.*

(2) *The cooperative shall work in concert with the Center for Universal Research to Eradicate Disease created in section 1 to ensure that the goals of the center are advanced.*

Section 5. Section 484.0512, Florida Statutes, is amended to read:

484.0512 *Thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee; criminal penalty procedures.*—

(1) *A person selling a hearing aid in this state must provide the buyer with written notice of a 30-day trial period and money-back guarantee. The guarantee must permit the purchaser to cancel the purchase for a valid reason as defined by rule of the board within 30 days after receiving the hearing aid, by returning the hearing aid or mailing written notice of cancellation to the seller. If the hearing aid must be repaired, remade, or adjusted during the 30-day trial period, the running of the 30-day trial period is suspended 1 day for each 24-hour period that the hearing aid is not in the purchaser's possession. A repaired, remade, or adjusted hearing aid must be claimed by the purchaser within 3 working days after notification of availability. The running of the 30-day trial period resumes on the day the purchaser reclaims the repaired, remade, or adjusted hearing aid or on the fourth day after notification of availability.*

(2) *The board, in consultation with the Board of Speech-Language Pathology and Audiology, shall prescribe by rule the terms and conditions to be contained in the money-back guarantee and any exceptions thereto. Such rule shall provide, at a minimum, that the charges for earmolds and service provided to fit the hearing aid may be retained by the licensee. The rules shall also set forth any reasonable charges to be held by the licensee as a cancellation fee. Such rule shall be effective on or before December 1, 1994. Should the board fail to adopt such rule, a licensee may not charge a cancellation fee which exceeds 5 percent of the total charge for a hearing aid alone. The terms and conditions of the guarantee, including the total amount available for refund, shall be provided in writing to the purchaser prior to the signing of the contract.*

(3) *Within 30 days after the return or attempted return of the hearing aid, the seller shall refund all moneys that must be refunded to a purchaser pursuant to this section. A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(4) *For purposes of this section, the term "seller" or "person selling a hearing aid" includes:*

(a) *Any natural person licensed under this part or any other natural person who signs a sales receipt required by s. 484.051(2) or s. 468.1245(2) or who otherwise fits, delivers, or dispenses a hearing aid.*

(b) Any business organization, whether a sole proprietorship, partnership, corporation, professional association, joint venture, business trust, or other legal entity, which dispenses a hearing aid or enters into an agreement to dispense a hearing aid.

(c) Any person who controls, manages, or operates an establishment or business that dispenses a hearing aid or enters into an agreement to dispense a hearing aid.

Section 6. Effective upon this act becoming a law, subsection (1) of section 456.073, Florida Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint filed by a state prisoner against a health care practitioner employed by or otherwise providing health care services within a facility of the Department of Corrections is not legally sufficient unless there is a showing that the prisoner complainant has exhausted all available administrative remedies within the state correctional system before filing the complaint. However, if the department determines after a preliminary inquiry of a state prisoner's complaint, that the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner, the department may determine legal sufficiency and proceed with discipline. The Department of Health shall be notified within 15 days whenever the Department of Corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of his or her profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

Section 7. (1) *The Division of Medical Quality Assurance of the Department of Health shall conduct a study of clinical and academic training requirements of certified optometric practitioners, licensed pursuant to chapter 463, Florida Statutes, to determine the extent to which prescribing authority may be expanded. The study group shall be composed of the following members:*

- (a) One pharmacologist representing the University of Florida;
- (b) One pharmacologist representing Nova Southeastern University;

(c) One pharmacologist representing Florida Agricultural and Mechanical University;

(d) One ophthalmologist representing Mayo Clinic Jacksonville;

(e) One ophthalmologist representing Bascom Palmer Eye Institute;

(f) One board-certified internist appointed by the University of South Florida;

(g) One optometrist representing the Florida Board of Optometry;

(h) One certified optometric practitioner representing the Florida Optometric Association; and

(i) One certified optometric practitioner appointed by the Nova Southeastern University College of Optometry.

(2) *The study group shall be chaired by the Secretary of Health or his or her designee. The study shall be completed and a final report presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2004. If applicable, a minority report shall be completed and presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2004.*

(3) *This section shall take effect upon becoming a law.*

Section 8. Present subsection (4) of section 465.0265, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

465.0265 Centralized prescription filling.—

(4) *Pharmacies accessing the same prescription records in a centralized database or pharmacy computers linked in any other manner may refill or dispense prescriptions at the request of another pharmacy so linked if the pharmacies have the same owner or have a written contract specifying the services to be provided by each pharmacy, the responsibilities of each pharmacy, and the manner in which the pharmacies will comply with federal and state laws and rules. Prescriptions refilled or dispensed using such a system shall not be considered prescription transfers or copies if the computer system registers a complete and full audit trail of all activities and includes the identification of the pharmacies and pharmacists accessing the centralized database and if the system restricts access to the computerized prescription records to pharmacies or other authorized personnel.*

Section 9. Subsection (2) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(2) An applicant shall be entitled to take the examinations required in this section to practice dentistry in this state if the applicant:

(a) Is 18 years of age or older.

(b)1. Is a graduate of a dental school accredited by the Commission on Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; or:

2. *Is a dental student in the final year of a program at such an accredited school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations. With respect to a dental student in the final year of a program at a dental school, a passing score on the examinations is valid for 180 days after the date the examinations were completed. A dental school student who takes the licensure examinations during the student's final year of an approved dental school must have graduated before being certified for licensure pursuant to s. 466.011.*

(c) Has successfully completed the National Board of Dental Examiners dental examination within 10 years of the date of application.

Section 10. Section 466.0065, Florida Statutes, is created to read:

466.0065 Regional licensure examinations.—

(1) *It is the intent of the Legislature that schools of dentistry be allowed to offer regional licensure examinations to dental students who are*

in the final year of a program at an approved dental school for the sole purpose of facilitating the student's licensing in other jurisdictions. This section does not allow a person to be licensed as a dentist in this state without taking the examinations as set forth in s. 466.006, nor does this section mean that regional examinations administered under this section may be substituted for complying with testing requirements under s. 466.006.

(2) Each school of dentistry in this state which is accredited by the Commission on Accreditation of the American Dental Association or its successor agency may, upon written approval by the Board of Dentistry, offer regional licensure examinations only to dental students in the final year of a program at an approved dental school, if the board has approved the hosting school's written plan to comply with the following conditions:

(a) The examining body must be a member of the American Association of Dental Examiners.

(b) The student must have successfully completed parts I and II of the National Board of Dental Examiners examination within 2 years before taking the regional examination.

(c) The student must possess medical malpractice insurance in amounts that the board determines to be sufficient to cover any reasonably foreseeable incident of harm to a patient during the clinical portion of the regional examination.

(d) At least one of the examination monitors must be a dentist licensed in this state who has completed all necessary standardization exercises required by the regional examination body.

(e) Adequate arrangements must be made, when necessary, for patients who require followup care as a result of procedures performed during the clinical portion of the regional examination.

(f) The board chair or the chair's designee must be allowed to observe testing while it is in progress.

(g) Each student, upon applying to take the regional examination, must receive written disclosure in at least 12-point boldface type which states: "This examination does not meet the licensure requirements of chapter 466, Florida Statutes, for licensure in the State of Florida. Persons wishing to practice dentistry in Florida must pass the Florida licensure examinations. For more information on Florida's licensure examination procedures, please contact the Florida Board of Dentistry."

(h) The student must be enrolled as a dental student in the student's final year of a program at an approved dental school that is accredited by the Commission on Accreditation of the American Dental Association or its successor agency.

(i) The student must have completed all the coursework necessary to prepare the student to perform all clinical and diagnostic procedures required to pass the regional examination.

(j) The student's academic record must not include any evidence suggesting that the student poses an unreasonable risk to any live patients who are required for the clinical portion of the regional examination. In order to protect the health and safety of the public, the board may request additional information and documents pertaining to the candidate's mental and physical health in order to fully assess the candidate's fitness to engage in exercises involving a live patient.

(3) A student who takes the examination pursuant to this section, a dental school that submits a plan pursuant to this section, or a regional examination body that a dental school proposes to host under this section does not have standing to assert that a state agency has taken action for which a hearing may be sought under ss. 120.569 and 120.57.

Section 11. This act may be cited as the "Nick Oelrich Gift of Life Act."

Section 12. Subsections (1), (2), and (6) of section 765.512, Florida Statutes, are amended to read:

765.512 Persons who may make an anatomical gift.—

(1) Any person who may make a will may give all or part of his or her body for any purpose specified in s. 765.510, the gift to take effect upon death. An anatomical gift made by an adult donor and not revoked by

the donor as provided in s. 765.516 is irrevocable ~~and does not require the consent or concurrence of any person~~ after the donor's death. A family member, guardian, representative ad litem, or health care surrogate of an adult donor who has made an anatomical gift pursuant to subsection (2) may not modify, deny or prevent a donor's wish or intent to make an anatomical gift from being made after the donor's death.

(2) If the decedent has executed an agreement concerning an anatomical gift, by ~~including~~ signing an organ and tissue donor card, by expressing his or her wish to donate in a living will or advance directive, or by signifying his or her intent to donate on his or her driver's license or in some other written form has indicated his or her wish to make an anatomical gift, and in the absence of actual notice of contrary indications by the decedent, the document is evidence of legally sufficient informed consent to donate an anatomical gift and is legally binding. Any surrogate designated by the decedent pursuant to part II of this chapter may give all or any part of the decedent's body for any purpose specified in s. 765.510.

(6) A gift of all or part of a body authorizes:

(a) Any examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The decedent's medical provider, family, or a third party to furnish medical records requested concerning the decedent's medical and social history.

Section 13. Section 765.516, Florida Statutes, is amended to read:

765.516 Amendment of the terms of or the revocation of the gift.—

(1) A donor may amend the terms of or revoke an anatomical gift by:

(a) The execution and delivery to the donee of a signed statement.

(b) An oral statement that is:

~~1. Made to the donor's spouse; or~~

~~2. made in the presence of two persons, one of whom must not be a family member, and communicated to the donor's family or attorney or to the donee.~~

(c) A statement during a terminal illness or injury addressed to an attending physician, who must communicate the revocation of the gift to the procurement organization that is certified by the state.

(d) A signed document found on or about the donor's person ~~or in the donor's effects.~~

(2) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided in subsection (1).

Section 14. Subsection (1) of section 765.401, Florida Statutes, is amended to read:

765.401 The proxy.—

(1) If an incapacitated or developmentally disabled patient has not executed an advance directive, or designated a surrogate to execute an advance directive, or the designated or alternate surrogate is no longer available to make health care decisions, health care decisions may be made for the patient by any of the following individuals, in the following order of priority, if no individual in a prior class is reasonably available, willing, or competent to act:

(a) The judicially appointed guardian of the patient or the guardian advocate of the person having a developmental disability as defined in s. 393.063, who has been authorized to consent to medical treatment, if such guardian has previously been appointed; however, this paragraph shall not be construed to require such appointment before a treatment decision can be made under this subsection;

(b) The patient's spouse;

(c) An adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;

(d) A parent of the patient;

(e) The adult sibling of the patient or, if the patient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation;

(f) An adult relative of the patient who has exhibited special care and concern for the patient and who has maintained regular contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs; or

(g) A close friend of the patient; or

(h) A clinical social worker licensed pursuant to chapter 491, or a graduate of a court-approved guardianship program. Such a proxy must be selected by the provider's bioethics committee and must not be employed by the provider. If the provider does not have a bioethics committee, then such a proxy may be chosen through an arrangement with the bioethics committee of another provider. The proxy must be notified that upon request the provider shall make available a second physician, not involved in the patient's care, to assist the proxy in evaluating treatment. Decisions to withhold or withdraw life-prolonging procedures must be reviewed by the facility's bioethics committee. Documentation of efforts to locate proxies from prior classes must be recorded in the patient record.

Section 15. Subsection (22) is added to section 641.19, Florida Statutes, to read:

641.19 Definitions.—As used in this part, the term:

(22) "Specialty" does not include services performed by a chiropractic physician licensed under chapter 460.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to health care; creating the James and Esther King Center for Universal Research to Eradicate Disease; providing intent and duties; creating an advisory council; amending s. 215.5602, F.S.; expanding the long-term goals and funding of the Florida Biomedical Research Program to include the cure of specified diseases; creating the Florida Cancer Research Cooperative; providing for a board of directors; providing the cooperative's mission and duties; amending s. 484.0512, F.S.; providing a criminal penalty for failure of a seller to refund within a specified time moneys required to be refunded to a purchaser for the return or attempted return of a hearing aid; providing a definition; amending s. 456.073, F.S.; providing that a state prisoner must exhaust all available administrative remedies before filing a complaint with the Department of Health against a health care practitioner who is providing health care services within the Department of Corrections, unless the practitioner poses a serious threat to the health or safety of a person who is not a state prisoner; requiring the Department of Health to be notified if a health care practitioner is disciplined or allowed to resign for a practice-related offense; requiring the Division of Medical Quality Assurance of the Department of Health to conduct a study of clinical and academic training requirements of certified optometric practitioners; providing for appointment of members; requiring a report to be submitted to the Governor and Legislature; amending s. 465.0265, F.S.; providing requirements for the filing of prescriptions by pharmacies that are under common ownership or that have a contractual relationship with one another; specifying requirements for exceptions to prescription transfers between certain pharmacies; amending s. 466.006, F.S.; allowing certain dental students to take the examinations required to practice dentistry in this state under specified conditions; providing a prerequisite to licensure of such students; creating s. 466.0065, F.S.; allowing certain dental students to take regional licensure examinations under specified conditions; restricting the applicability of examination results to licensing in other jurisdictions; requiring approval by the Board of Dentistry and providing prerequisites to such approval; creating the "Nick Oelrich Gift of Life Act"; amending s. 765.512, F.S., relating to anatomical gifts; prohibiting modification of a donor's intent; providing that a donor document is legally binding; authorizing specified persons to furnish a donor's medical records upon request; amending s. 765.516, F.S.; revising procedures by which the terms of an anatomical gift may be amended or the gift may be revoked; amending s. 765.401, F.S.; providing additional persons who may be given a proxy for the making of health care decisions; requiring review by the facility's bioethics committee of decisions to withhold or

withdraw life-prolonging procedures; requiring documentation of efforts to locate certain proxies; amending s. 641.19, F.S.; providing that the term "specialty" does not include the services of a licensed chiropractic physician for purposes of the regulation of managed care;

Amendment 2 (712174)(with title amendment)—On page 2, line 8, insert:

Section 1. *This act may be cited as the "Clara Ramsey Care of the Elderly Act."*

Section 2. *Certified Geriatric Specialist Preparation Pilot Program.*—

(1) *The Agency for Workforce Innovation shall establish a pilot program for delivery of geriatric nursing education to certified nursing assistants who wish to become certified geriatric specialists. The agency shall select two pilot sites in nursing homes that have received the Gold Seal designation under section 400.235, Florida Statutes; have been designated as a teaching nursing home under section 430.80, Florida Statutes; or have not received a class I or class II deficiency within the 30 months preceding application for this program.*

(2) *To be eligible to receive geriatric nursing education, a certified nursing assistant must have been employed by a participating nursing home for at least 1 year and have received a high school diploma or its equivalent.*

(3) *The education shall be provided at the worksite and in coordination with the certified nursing assistant's work schedule.*

(4) *Faculty shall provide the instruction under an approved nursing program pursuant to section 464.019, Florida Statutes.*

(5) *The education shall prepare the certified nursing assistant to meet the requirements for certification as a geriatric specialist. The didactic and clinical education shall include all portions of the practical nursing curriculum pursuant to section 464.019, Florida Statutes, except for pediatric and obstetric/maternal-child education, and shall include additional education in the care of ill, injured, or infirm geriatric patients and the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients.*

Section 3. *Certified Geriatric Specialty Nursing Initiative Steering Committee.*—

(1) *In order to guide the implementation of the Certified Geriatric Specialist Preparation Pilot Program, there is created a Certified Geriatric Specialty Nursing Initiative Steering Committee. The steering committee shall be composed of the following members:*

(a) *The chair of the Board of Nursing or his or her designee;*

(b) *A representative of the Agency for Workforce Innovation, appointed by the Director of Workforce Innovation;*

(c) *A representative of Workforce Florida, Inc., appointed by the chair of the Board of Directors of Workforce Florida, Inc.;*

(d) *A representative of the Department of Education, appointed by the Secretary of Education;*

(e) *A representative of the Agency for Health Care Administration, appointed by the Secretary of Health Care Administration;*

(f) *The Director of the Florida Center for Nursing; and*

(g) *A representative of a Gold Seal nursing home that is not one of the pilot program sites, appointed by the Secretary of Health Care Administration.*

(2) *The steering committee shall:*

(a) *Provide consultation and guidance to the Agency for Workforce Innovation on matters of policy during the implementation of the pilot program; and*

(b) *Provide oversight to the evaluation of the pilot program.*

(3) *Members of the steering committee are entitled to reimbursement for per diem and travel expenses under section 112.061, Florida Statutes.*

(4) *The steering committee shall complete its activities by June 30, 2006, and the authorization for the steering committee ends on that date.*

Section 4. Evaluation of the Certified Geriatric Specialist Preparation Pilot Program.—*The Agency for Workforce Innovation, in consultation with the Certified Geriatric Specialty Nursing Initiative Steering Committee, shall conduct, or contract for an evaluation of the pilot program. The agency shall ensure that an evaluation report is submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006. The evaluation must address the experience and success of the certified nursing assistants in the pilot program and must contain recommendations regarding the expansion of the delivery of geriatric nursing education in nursing homes.*

Section 5. Reports.—*The Agency for Workforce Innovation shall submit status reports and recommendations regarding legislation necessary to further the implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives on January 1, 2004, January 1, 2005, and January 1, 2006.*

Section 6. Section 464.0125, Florida Statutes, is created to read:

464.0125 Certified geriatric specialists; certification requirements.—

(1) **DEFINITIONS; RESPONSIBILITIES.**—

(a) *As used in this section, the term:*

1. *“Certified geriatric specialist” means a person who meets the qualifications specified in this section and who is certified by the board to practice as a certified geriatric specialist.*

2. *“Geriatric patient” means any patient who is 60 years of age or older.*

3. *“Practice of certified geriatric specialty nursing” means the performance of selected acts in facilities licensed under part II or part III of chapter 400, including the administration of treatments and medications, in the care of ill, injured, or infirm geriatric patients and the promotion of wellness, maintenance of health, and prevention of illness of geriatric patients under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. The scope of practice of a certified geriatric specialist includes the practice of practical nursing as defined in s. 464.003 for geriatric patients only, except for any act in which instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing is required. A certified geriatric specialist, while providing nursing services in facilities licensed under part II or part III of chapter 400, may supervise the activities of certified nursing assistants and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the board.*

(b) *The certified geriatric specialist shall be responsible and accountable for making decisions that are based upon the individual’s educational preparation and experience in performing certified geriatric specialty nursing.*

(2) **CERTIFICATION.**—

(a) *Any certified nursing assistant desiring to be certified as a certified geriatric specialist shall apply to the department and submit proof that he or she holds a current certificate as a certified nursing assistant under this part and has satisfactorily completed the following requirements:*

1. *Is in good mental and physical health, is a recipient of a high school diploma or its equivalent and has completed the requirements for graduation from an approved program for nursing or its equivalent, as determined by the board, for the preparation of licensed practical nurses, except for instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing. Any program that is approved on July 1, 2003, by the board for the preparation of registered nurses or licensed practical nurses may provide education for the preparation of certified geriatric specialists without further board approval.*

2. *Has the ability to communicate in the English language, which may be determined by an examination given by the department.*

3. *Has provided sufficient information, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.*

(b) *Each applicant who meets the requirements of this subsection shall, unless denied pursuant to s. 464.018, be entitled to certification as a certified geriatric specialist. The board shall certify, and the department shall issue a certificate to practice as a certified geriatric specialist to, any certified nursing assistant meeting the qualifications in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board may adopt rules to administer this section.*

(c) *A person receiving certification under this section shall:*

1. *Work only within the confines of a facility licensed under part II or part III of chapter 400.*

2. *Care for geriatric patients only.*

3. *Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018.*

(3) **ARTICULATION.**—*Any certified geriatric specialist who completes the additional instruction and coursework in an approved nursing program pursuant to s. 464.019 for the preparation of practical nursing in the areas of pediatric nursing and obstetric/maternal-child nursing shall, unless denied pursuant to s. 464.018, be entitled to licensure as a licensed practical nurse if the applicant otherwise meets the requirements of s. 464.008.*

(4) **TITLES AND ABBREVIATIONS; RESTRICTIONS; PENALTIES.**—

(a) *Only persons who hold certificates to practice as certified geriatric specialists in this state or who are performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8) shall have the right to use the title “Certified Geriatric Specialist” and the abbreviation “C.G.S.”*

(b) *No person shall practice or advertise as, or assume the title of, certified geriatric specialist or use the abbreviation “C.G.S.” or take any other action that would lead the public to believe that person was certified as such or is performing services within the practice of certified geriatric specialty nursing pursuant to the exception set forth in s. 464.022(8), unless that person is certified to practice as such.*

(c) *A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(5) **VIOLATIONS AND PENALTIES.**—*Practicing certified geriatric specialty nursing, as defined in this section, without holding an active certificate to do so constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 7. Paragraph (b) of subsection (1) of section 381.00315, Florida Statutes, is amended to read:

381.00315 Public health advisories; public health emergencies.—*The State Health Officer is responsible for declaring public health emergencies and issuing public health advisories.*

(1) *As used in this section, the term:*

(b) *“Public health emergency” means any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Prior to declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security Initiatives as created in s. 943.03. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:*

1. *Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and wholesalers of prescription drugs located in this state who are permitted under chapter 499 to*

give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State Health Officer. The State Health Officer must identify the drugs to be shipped. Manufacturers and wholesalers located in the state must respond to the State Health Officer's priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted thereunder, directing pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; *certified geriatric specialists certified under part I of chapter 464*; licensed practical nurses, registered nurses, and advanced registered nurse practitioners licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this paragraph shall return to inactive status when the public health emergency ends or prior to the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401, as applicable.

4. Ordering an individual to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to quarantine.

a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to quarantine. If there is no practical method to quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.0012.

Section 8. Subsection (14) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(14) "Nursing service" means such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in ss. ~~s.~~ 464.003 and 464.0125.

Section 9. Subsection (1) of section 400.211, Florida Statutes, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(1) To serve as a nursing assistant in any nursing home, a person must be certified as a nursing assistant under part II of chapter 464, unless the person is a registered nurse, ~~a~~ *a* practical nurse, ~~or a certified geriatric specialist certified~~ or licensed in accordance with part I of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted by the Board of Nursing pursuant to part I of chapter 464.

Section 10. Paragraphs (a) and (c) of subsection (3) of section 400.23, Florida Statutes, are amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)(a) The agency shall adopt rules providing for the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing of 2.3 hours of direct care per resident per day beginning January 1, 2002, increasing to 2.6 hours of direct care per resident per day beginning January 1, 2003, and increasing to 2.9 hours of direct care per resident per day beginning January 1, 2004. Beginning January 1, 2002, no facility shall staff below one certified nursing assistant per 20 residents, and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident per day but never below one licensed nurse per 40 residents. *For purposes of computing nursing staffing minimums and ratios, certified geriatric specialists shall be considered licensed nursing staff.* Nursing assistants employed under s. 400.211(2) may be included in computing the staffing ratio for certified nursing assistants only if they provide nursing assistance services to residents on a full-time basis. Each nursing home must document compliance with staffing standards as required under this paragraph and post daily the names of staff on duty for the benefit of facility residents and the public. The agency shall recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants, provided that the facility otherwise meets the minimum staffing requirements for licensed nurses and that the licensed nurses so recognized are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted towards the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and shall not also be counted towards the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. In no event may the hours of a licensed nurse with dual job responsibilities be counted twice.

(c) Licensed practical nurses licensed under chapter 464 who are providing nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, *certified geriatric specialists*, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

Section 11. Paragraph (b) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be affected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance

with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. Changes of ownership or of licensed operator do not qualify for increases in reimbursement rates associated with the change of ownership or of licensed operator. The agency shall amend the Title XIX Long Term Care Reimbursement Plan to provide that the initial nursing home reimbursement rates, for the operating, patient care, and MAR components, associated with related and unrelated party changes of ownership or licensed operator filed on or after September 1, 2001, are equivalent to the previous owner's reimbursement rate.

2. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent shall be limited by the lower of the cost-based class ceiling, by the target rate class ceiling, or by the individual provider target. The agency shall adjust the patient care component effective January 1, 2002. The cost to adjust the direct care subcomponent shall be net of the total funds previously allocated for the case mix add-on. The agency shall make the required changes to the nursing home cost reporting forms to implement this requirement effective January 1, 2002.

3. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, *certified geriatric specialists*, *certified under part I of chapter 464*, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, MDS, and care plan coordinators, staff development, and staffing coordinator.

4. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

5. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

6. In order to offset the cost of general and professional liability insurance, the agency shall amend the plan to allow for interim rate adjustments to reflect increases in the cost of general or professional liability insurance for nursing homes. This provision shall be implemented to the extent existing appropriations are available.

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

Section 12. Subsection (2) of section 458.303, Florida Statutes, is amended to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(2) Nothing in s. 458.301, s. 458.303, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347 shall be construed to prohibit any service rendered by a registered nurse, ~~or a licensed practical nurse, or a certified geriatric specialist certified under part I of chapter 464~~, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant in accordance with the provisions of s. 458.3485.

Section 13. Subsection (1) and paragraph (a) of subsection (2) of section 1009.65, Florida Statutes, are amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced registered nurse practitioner certification or physician assistant licensure. The following licensed or certified health care professionals are eligible to participate in this program: medical doctors with primary care specialties, doctors of osteopathic medicine with primary care specialties, physician's assistants, *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses and registered nurses, and advanced registered nurse practitioners with primary care specialties such as certified nurse midwives. Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal medicine, pediatrics, and other specialties which may be identified by the Department of Health.

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as follows:

(a) Up to \$4,000 per year for *certified geriatric specialists certified under part I of chapter 464*, licensed practical nurses, and registered nurses, up to \$10,000 per year for advanced registered nurse practitioners and physician's assistants, and up to \$20,000 per year for physicians. Penalties for noncompliance shall be the same as those in the National Health Services Corps Loan Repayment Program. Educational expenses include costs for tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the Department of Health.

Section 14. Subsection (2) of section 1009.66, Florida Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse, a *certified geriatric specialist certified under part I of chapter 464*, or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

Section 15. *The sum of \$157,017 is appropriated from the General Revenue Fund to the Agency for Workforce Innovation to support the work of the Certified Geriatric Specialty Nursing Initiative Steering Committee, to administer the pilot sites, contract for an evaluation, and to provide, if necessary, nursing faculty, substitute certified nursing assistants for those who are in clinical education, and technical support to the pilot sites during the 2003-2004 fiscal year.*

Section 16. Subsection (6) is added to section 464.201, Florida Statutes, to read:

464.201 Definitions.—As used in this part, the term:

(6) "Practice of a certified nursing assistant" means providing care and assisting persons with tasks relating to the activities of daily living. Such tasks are those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, post mortem care, patient socialization and reality orientation, end-of-life care, CPR and emergency care, residents' or patients' rights, documentation of nursing assistant services, and other tasks that a certified nurse assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse. This section does not restrict the ability of any person who is otherwise trained and educated from performing such tasks.

Section 17. Section 464.202, Florida Statutes, is amended to read:

464.202 Duties and powers of the board.—The board shall maintain, or contract with or approve another entity to maintain, a state registry

of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by board rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants *which specify the scope of practice authorized and level of supervision required for the practice of certified nursing assistants to enforce this part.* The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet. The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to health care; providing a short title; requiring the Agency for Workforce Innovation to establish a pilot program for delivery of certified geriatric specialty nursing education; specifying eligibility requirements for certified nursing assistants to obtain certified geriatric specialty nursing education; specifying requirements for the education of certified nursing assistants to prepare for certification as a certified geriatric specialist; creating a Certified Geriatric Specialty Nursing Initiative Steering Committee; providing for the composition of and manner of appointment to the Certified Geriatric Specialty Nursing Initiative Steering Committee; providing responsibilities of the steering committee; providing for reimbursement for per diem and travel expenses; requiring the Agency for Workforce Innovation to conduct or contract for an evaluation of the pilot program for delivery of certified geriatric specialty nursing education; requiring the evaluation to include recommendations regarding the expansion of the delivery of certified geriatric specialty nursing education in nursing homes; requiring the Agency for Workforce Innovation to report to the Governor and Legislature regarding the status and evaluation of the pilot program; creating s. 464.0125, F.S.; providing definitions; providing requirements for persons to become certified geriatric specialists; specifying fees; providing for articulation of geriatric specialty nursing coursework and practical nursing coursework; providing practice standards and grounds for which certified geriatric specialists may be subject to discipline by the Board of Nursing; creating restrictions on the use of professional nursing titles; prohibiting the use of certain professional titles; providing penalties; authorizing approved nursing programs to provide education for the preparation of certified geriatric specialists without further board approval; authorizing certified geriatric specialists to supervise the activities of others in nursing home facilities according to rules by the Board of Nursing; revising terminology relating to nursing to conform to the certification of geriatric specialists; amending s. 381.00315, F.S.; revising requirements for the reactivation of the licenses of specified health care practitioners in the event of public health emergency to include certified geriatric specialists; amending s. 400.021, F.S.; including services provided by a certified geriatric specialist within the definition of nursing service; amending s. 400.211, F.S.; revising requirements for persons employed as nursing assistants to conform to the certification of certified geriatric specialists; amending s. 400.23, F.S.; specifying that certified geriatric specialists shall be considered licensed nursing staff; authorizing licensed practical nurses to supervise the activities of certified geriatric specialists in nursing home facilities according to rules adopted by the Board of Nursing; amending s. 409.908, F.S.; revising the methodology for reimbursement of Medicaid program providers to include services of certified geriatric specialists; amending s. 458.303, F.S.; revising exceptions to the practice of medicine to include services delegated to a certified geriatric specialist under specified circumstances; amending s. 1009.65, F.S.; revising eligibility for the Medical Education Reimbursement and Loan Repayment Program to include certified geriatric specialists; amending s. 1009.66, F.S.; revising eligibility requirements for

the Nursing Student Loan Forgiveness Program to include certified geriatric specialists; providing an appropriation; amending s. 464.201, F.S.; defining terms; amending s. 464.202, F.S.; authorizing the Board of Nursing to adopt rules regarding the practice and supervision of certified nursing assistants;

Senators Cowin, Campbell, Wasserman Schultz and Lynn offered the following amendment which was moved by Senator Cowin:

Amendment 3 (201292)—On page 7, between lines 24 and 25, insert:

(d) Dispensed by a health care practitioner or a pharmacist to a patient under a prescription written within 10 days of a surgical procedure for the patient, which notes that such drugs are prescribed for treatment of a postoperative condition.

(Redesignate subsequent paragraphs.)

Senator Cowin moved the following amendment to **Amendment 3** which was adopted:

Amendment 3A (113838)—On page 1, line 22, after “condition” insert: *and the date of the surgery*

Amendment 3 as amended was adopted.

MOTION

On motion by Senator Fasano, the rules were waived to allow the following amendment to be considered:

Senators Klein, Peaden, Dawson, Margolis and Cowin offered the following amendment which was moved by Senator Fasano and adopted:

Amendment 4 (643682)(with title amendment)—On page 10, between lines 8 and 9, insert:

Section 7. Effective May 1, 2003, subsection (2) of section 409.904, Florida Statutes, is amended to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(2) A caretaker relative or parent, a pregnant woman, a child under age 19 who would otherwise qualify for Florida Kidcare Medicaid, a child up to age 21 who would otherwise qualify under s. 409.903(1), a person age 65 or over, or a blind or disabled person, who would otherwise be eligible for Florida Medicaid, except that the income or assets of such family or person exceed established limitations. For a family or person in one of these coverage groups, medical expenses are deductible from income in accordance with federal requirements in order to make a determination of eligibility. Expenses used to meet spend-down liability are not reimbursable by Medicaid. Effective July 1, 2003, when determining the eligibility of a pregnant woman, a child, or an aged, blind, or disabled individual, \$270 shall be deducted from the countable income of the filing unit. When determining the eligibility of the parent or caretaker relative as defined by Title XIX of the Social Security Act, the additional income disregard of \$270 does not apply. A family or person eligible under the coverage known as the “medically needy,” is eligible to receive the same services as other Medicaid recipients, with the exception of services in skilled nursing facilities and intermediate care facilities for the developmentally disabled.

Section 8. *The non-recurring sums of \$8,265,777 from the General Revenue Fund, \$2,505,224 from the Grants and Donations Trust Fund, and \$11,727,287 from the Medical Care Trust Fund are appropriated to the Agency for Health Care Administration to implement section 7 of this act during the 2002-2003 fiscal year. This section takes effect May 1, 2003.*

Section 9. Except as otherwise expressly provided, sections 7-9 shall take effect July 1, 2003, but if this act becomes a law after May 1, 2003, sections 7 and 8 of this act shall operate retroactively to that date.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, lines 4 and 5, delete those lines and insert: penalties; amending s. 409.904, F.S.; postponing the effective date of changes to standards for eligibility for certain optional medical assistance, including coverage under the medically needy program; providing appropriations; providing for retroactive application; providing effective dates, including a contingent effective date.

Pursuant to Rule 4.19, **CS for CS for SB 2390** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for SB 2750—A bill to be entitled An act relating to health care; amending s. 393.064, F.S.; providing for the Department of Health rather than the Department of Children and Family Services to manage the Raymond C. Philips Research and Education Unit; amending s. 394.4615, F.S.; revising the standard under which a patient's access to his or her own clinical records may be restricted; amending s. 395.3025, F.S.; authorizing the release of patient records to a health care practitioner, the Department of Health, or a researcher or facility personnel under certain circumstances; revising a restriction on the use of patient information for certain purposes; amending s. 400.141, F.S.; providing for the release of certain nursing home resident records to the Department of Health pursuant to subpoena; amending s. 400.145, F.S., and creating s. 400.455, F.S.; requiring certification of certain records by the nursing home administrator or records custodian; amending s. 456.017, F.S.; authorizing the Department of Health to post examination scores electronically in lieu of mailing; amending s. 456.0375, F.S.; providing that a community college or university clinic is exempt from certain registration requirements; amending s. 456.041, F.S.; revising certain requirements concerning information on paid claims which is included in the practitioner profile; amending s. 456.049, F.S.; revising requirements concerning information on final judgments and settlements which is included on reports filed with the department; amending s. 456.055, F.S.; requiring claims for payment for services submitted under the same payment code to be paid in the same amount; prohibiting the waiver of such requirement by contract; amending s. 456.057, F.S.; specifying certain circumstances under which a patient release for the furnishing of records is not required; authorizing the department to obtain records pursuant to subpoena; requiring the certification of certain records; amending s. 456.063, F.S.; authorizing the board, or the department if there is no board, to adopt rules for reporting allegations of sexual misconduct; amending s. 456.072, F.S.; revising provisions specifying grounds under which disciplinary actions may be taken; providing for attorney's fees under certain circumstances; requiring that a revocation or suspension of a license be established by clear and convincing evidence; amending s. 456.073, F.S., relating to disciplinary proceedings; revising the period for filing a response to a complaint; revising requirements for the administrative hearing on a complaint; providing for certain charges and filing fees; amending s. 456.077, F.S.; revising provisions governing the issuance of citations; amending s. 456.078, F.S.; providing requirements for mediation; specifying events that constitute an adverse incident and are not subject to mediation; providing requirements for payment of the costs of mediation; requiring each board to adopt rules designating violations that are appropriate for mediation; amending s. 458.311, F.S.; revising licensure requirements; providing requirements for certification by the Board of Medicine; providing education and examination requirements; authorizing the board to adopt rules; amending s. 458.315, F.S.; providing requirements for limited licenses; providing for fees and waiver of fees under certain circumstances; providing certain restrictions on practice; providing for license renewal and for converting an active or inactive license to a limited license; amending s. 458.331, F.S.; revising requirements for determining a case of repeated malpractice and for requiring an investigation by the department; repealing s. 458.348(3), F.S., relating to protocols for the practice of electrolysis or electrology; amending s. 459.015, F.S.; revising requirements for the department with respect to investigating a claim against an osteopathic physician; amending s. 460.413, F.S.; revising the period for a chiropractic physician to respond to a complaint; amending s. 461.013, F.S.; revising requirements for determining a case of repeated malpractice and for requiring an investigation by the department; providing a short title; requiring the Agency for Workforce Innovation to establish a pilot program for delivery of certified geriatric

specialty nursing education; specifying eligibility requirements for certified nursing assistants to obtain certified geriatric specialty nursing education; specifying requirements for the education of certified nursing assistants to prepare for certification as a certified geriatric specialist; creating a Certified Geriatric Specialty Nursing Initiative Steering Committee; providing for the composition of and manner of appointment to the Certified Geriatric Specialty Nursing Initiative Steering Committee; providing responsibilities of the steering committee; providing for reimbursement for per diem and travel expenses; requiring the Agency for Workforce Innovation to conduct or contract for an evaluation of the pilot program for delivery of certified geriatric specialty nursing education; requiring the evaluation to include recommendations regarding the expansion of the delivery of certified geriatric specialty nursing education in nursing homes; requiring the Agency for Workforce Innovation to report to the Governor and Legislature regarding the status and evaluation of the pilot program; creating s. 464.0125, F.S.; providing definitions; providing requirements for persons to become certified geriatric specialists; specifying fees; providing for articulation of geriatric specialty nursing coursework and practical nursing coursework; providing practice standards and grounds for which certified geriatric specialists may be subject to discipline by the Board of Nursing; creating restrictions on the use of professional nursing titles; prohibiting the use of certain professional titles; providing penalties; authorizing approved nursing programs to provide education for the preparation of certified geriatric specialists without further board approval; authorizing certified geriatric specialists to supervise the activities of others in nursing home facilities according to rules by the Board of Nursing; revising terminology relating to nursing to conform to the certification of geriatric specialists; amending s. 381.00315, F.S.; revising requirements for the reactivation of the licenses of specified health care practitioners in the event of public health emergency to include certified geriatric specialists; amending s. 400.021, F.S.; including services provided by a certified geriatric specialist within the definition of nursing service; amending s. 400.211, F.S.; revising requirements for persons employed as nursing assistants to conform to the certification of certified geriatric specialists; amending s. 400.23, F.S.; specifying that certified geriatric specialists shall be considered licensed nursing staff; authorizing licensed practical nurses to supervise the activities of certified geriatric specialists in nursing home facilities according to rules adopted by the Board of Nursing; amending s. 409.908, F.S.; revising the methodology for reimbursement of Medicaid program providers to include services of certified geriatric specialists; amending s. 458.303, F.S.; revising exceptions to the practice of medicine to include services delegated to a certified geriatric specialist under specified circumstances; amending s. 1009.65, F.S.; revising eligibility for the Medical Education Reimbursement and Loan Repayment Program to include certified geriatric specialists; amending s. 1009.66, F.S.; revising eligibility requirements for the Nursing Student Loan Forgiveness Program to include certified geriatric specialists; providing an appropriation; amending s. 464.201, F.S.; defining terms; amending s. 464.202, F.S.; authorizing the Board of Nursing to adopt rules regarding the practice and supervision of certified nursing assistants; amending s. 464.203, F.S.; revising requirements for the screening of certified nursing assistants; revising hours required for inservice training; providing for certification renewal fees; amending s. 464.204, F.S.; revising the standards under which disciplinary sanctions may be imposed; amending s. 467.013, F.S.; providing for the department to adopt rules governing applications for inactive status for midwives; amending s. 467.0135, F.S.; revising the schedule of fees; amending s. 467.017, F.S.; requiring that the emergency care plan be available to the department; amending s. 468.352, F.S.; revising and providing definitions applicable to the regulation of respiratory therapy; amending s. 468.355, F.S.; revising provisions relating to respiratory therapy licensure and testing requirements; amending s. 468.368, F.S.; revising exemptions from respiratory therapy licensure requirements; repealing s. 468.356, F.S., relating to the approval of educational programs; repealing s. 468.357, F.S., relating to licensure by examination; amending s. 491.005, F.S.; revising certain licensing requirements for clinical social workers; amending s. 491.0145, F.S.; prohibiting the Department of Health from adopting certain rules governing licensure; creating s. 491.0146, F.S.; providing for effect of certain licenses; amending s. 627.912, F.S.; revising requirements for liability reports by insurers; amending s. 766.101, F.S.; providing immunity from liability for a medical review committee established by a university board of trustees and a committee of a college of medicine, college of nursing, or other health care discipline; repealing ss. 456.031, 456.033, 456.034, 458.313, 458.316, 458.3165, and 458.317, F.S., relating to instruction on domestic violence and on HIV and AIDS, licensure by endorsement, public health

certificates and public psychiatry certificates, and limited licenses; providing for certain payments made by the Department of Health to the Division of Administrative Hearings to revert to the department; requiring the Office of Program Policy Analysis and Government Accountability and the Auditor General to study the hearings conducted by the division and the billings for those hearings; requiring a report to the Legislature; amending ss. 400.4785, 400.5571, 400.6045, F.S.; prescribing training standards for employees of home health agencies, adult day care centers, and hospices, respectively, that provide care for persons who have Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; providing for compliance with guidelines within a certain time period; providing for approval of Alzheimer's training and trainers; providing for application of training to meet specified requirements; providing authority to adopt rules; providing legislative findings and intent; providing effective dates.

—was read the second time by title.

Senator Dawson moved the following amendments which were adopted:

Amendment 1 (275440)(with title amendment)—On page 9, line 2, insert:

Section 1. Present subsections (3) through (8) of section 20.43, Florida Statutes, are redesignated as subsections (4) through (9), respectively, and a new subsection (3) is added to that section, to read:

20.43 Department of Health.—There is created a Department of Health.

(3) *There is established within the Department of Health the Office of Minority Health.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending s. 20.43, F.S.; establishing the Office of Minority Health within the Department of Health;

Amendment 2 (600182)(with title amendment)—On page 9, line 2, insert:

Section 1. Paragraph (e) of subsection (2) of section 381.7353, Florida Statutes, is amended to read:

381.7353 Reducing Racial and Ethnic Health Disparities: Closing the Gap grant program; administration; department duties.—

(2) The department shall:

(e) Coordinate with existing community-based programs, such as chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, *oral health care programs*, the Healthy Start program, the Florida KidCare Program, the HIV/AIDS program, immunization programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.

Section 2. Paragraph (a) of subsection (2) of section 381.7355, Florida Statutes, is amended to read:

381.7355 Project requirements; review criteria.—

(2) A proposal must include each of the following elements:

(a) The purpose and objectives of the proposal, including identification of the particular racial or ethnic disparity the project will address. The proposal must address one or more of the following priority areas:

1. Decreasing racial and ethnic disparities in maternal and infant mortality rates.
2. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cancer.
3. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to HIV/AIDS.

4. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cardiovascular disease.

5. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to diabetes.

6. Increasing adult and child immunization rates in certain racial and ethnic populations.

7. *Decreasing racial and ethnic disparities relating to oral health care.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: amending ss. 381.7353, 381.7355, F.S.; providing duties of the Department of Health with respect to oral health care programs;

Senator Peaden moved the following amendments which were adopted:

Amendment 3 (091780)(with title amendment)—On page 9, line 27 through page 12, line 15, delete those lines and insert:

Section 3. Paragraphs (a) and (e) of subsection (4) and paragraph (b) of subsection (7) of section 395.3025, Florida Statutes, are amended, and a new paragraph (l) is added to subsection (4) of that section, to read:

395.3025 Patient and personnel records; copies; examination.—

(4) Patient records are confidential and must not be disclosed without the consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:

(a) ~~Licensed Facility personnel and all licensed health care practitioners attending physicians~~ for use in connection with the treatment of the patient.

(e) The ~~Department of Health agency~~ upon subpoena issued pursuant to s. 456.071, but the records obtained thereby must be used solely for the purpose of the ~~department agency~~ and the appropriate professional board in its investigation, prosecution, and appeal of disciplinary proceedings. *The administrator or records custodian in a facility licensed under this chapter shall certify that a true and complete copy of the records requested pursuant to a subpoena or patient release have been provided to the department or otherwise identify those documents that have not been provided.* If the ~~department agency~~ requests copies of the records, the facility shall charge no more than its actual copying costs, including reasonable staff time. The records must be sealed and must not be available to the public pursuant to s. 119.07(1) or any other statute providing access to records, nor may they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the ~~department agency~~ or the appropriate regulatory board. However, the ~~department agency~~ must make available, upon written request by a practitioner against whom probable cause has been found, any such records that form the basis of the determination of probable cause.

(l) *Researchers or facility personnel for research purposes, provided that the researchers or facility personnel demonstrate compliance with the requirements of 45 C.F.R. s. 164.512(i).*

(7)

(b) Absent a specific written release or authorization permitting utilization of patient information for ~~solicitation or marketing~~ the sale of goods or services, any use of ~~such that~~ information for ~~that purpose those purposes~~ is prohibited. *For purposes of this paragraph, the term "marketing" is defined as set forth in 45 C.F.R. s. 164.501.*

Section 4. Paragraph (b) of subsection (2) of section 395.7015, Florida Statutes, is amended to read:

395.7015 Annual assessment on health care entities.—

(2) There is imposed an annual assessment against certain health care entities as described in this section:

(b) For the purpose of this section, "health care entities" include the following:

1. Ambulatory surgical centers and mobile surgical facilities licensed under s. 395.003. This subsection shall only apply to mobile surgical facilities operating under contracts entered into on or after July 1, 1998.

2. Clinical laboratories licensed under s. 483.091, excluding any hospital laboratory defined under s. 483.041(6), any clinical laboratory operated by the state or a political subdivision of the state, any clinical laboratory which qualifies as an exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which receives 70 percent or more of its gross revenues from services to charity patients or Medicaid patients, and any blood, plasma, or tissue bank procuring, storing, or distributing blood, plasma, or tissue either for future manufacture or research or distributed on a nonprofit basis, and further excluding any clinical laboratory which is wholly owned and operated by 6 or fewer physicians who are licensed pursuant to chapter 458 or chapter 459 and who practice in the same group practice, and at which no clinical laboratory work is performed for patients referred by any health care provider who is not a member of the same group.

3. Diagnostic-imaging centers that are freestanding outpatient facilities that provide specialized services for the identification or determination of a disease through examination and also provide sophisticated radiological services, and in which services are rendered by a physician licensed by the Board of Medicine under s. 458.311, ~~s. 458.313~~, or s. 458.315 ~~458.317~~, or by an osteopathic physician licensed by the Board of Osteopathic Medicine under s. 459.006, s. 459.007, or s. 459.0075. For purposes of this paragraph, "sophisticated radiological services" means the following: magnetic resonance imaging; nuclear medicine; angiography; arteriography; computed tomography; positron emission tomography; digital vascular imaging; bronchography; lymphangiography; splenography; ultrasound, excluding ultrasound providers that are part of a private physician's office practice or when ultrasound is provided by two or more physicians licensed under chapter 458 or chapter 459 who are members of the same professional association and who practice in the same medical specialties; and such other sophisticated radiological services, excluding mammography, as adopted in rule by the board.

Section 5. Subsection (10) of section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(10) Keep full records of resident admissions and discharges; medical and general health status, including medical records, personal and social history, and identity and address of next of kin or other persons who may have responsibility for the affairs of the residents; and individual resident care plans including, but not limited to, prescribed services, service frequency and duration, and service goals. The records shall be open to inspection by the agency. *A certified complete copy of the records shall be provided to the Department of Health upon subpoena issued pursuant to ss. 456.057 and 456.071. The provisions of chapter 456 apply to records obtained pursuant to this section.*

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of their program.

Section 6. Subsection (3) is added to section 400.145, Florida Statutes, to read:

400.145 Records of care and treatment of resident; copies to be furnished.—

(3) *The administrator or records custodian in a facility licensed under this part shall certify that a true and complete copy of the records requested pursuant to a subpoena or patient release has been provided to the department or otherwise identify those documents that have not been provided.*

Section 7. Subsection (4) of section 400.211, Florida Statutes, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, to maintain certification, shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of such reviews. The inservice training must:

(a) Be sufficient to ensure the continuing competence of nursing assistants, must be at least ~~12~~ 48 hours per year, and may include hours accrued under s. 464.203(7)(8);

(b) Include, at a minimum:

1. Techniques for assisting with eating and proper feeding;
2. Principles of adequate nutrition and hydration;
3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;
4. Techniques for caring for the resident at the end-of-life; and
5. Recognizing changes that place a resident at risk for pressure ulcers and falls; and

(c) Address areas of weakness as determined in nursing assistant performance reviews and may address the special needs of residents as determined by the nursing home facility staff.

Costs associated with this training may not be reimbursed from additional Medicaid funding through interim rate adjustments.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 9-22, delete those lines and insert: clinical records may be restricted; amending s. 395.3025, F.S.; authorizing the release of patient records to a health care practitioner, the Department of Health, or a researcher or facility personnel under certain circumstances; revising a restriction on the use of patient information for certain purposes; amending s. 395.7015, F.S.; conforming cross-references; amending s. 400.141, F.S.; providing for the release of certain nursing home resident records to the Department of Health pursuant to subpoena; amending s. 400.145, F.S., and creating s. 400.455, F.S.; requiring certification of certain records by the nursing home administrator or records custodian; amending s. 400.211, F.S.; reducing required inservice training hours for nursing assistants; amending s.

Amendment 4 (890294)(with title amendment)—On page 13, line 18 through page 14, line 6, delete those lines and insert:

2. *Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.*

3. *Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.*

4. *Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.*

5.2. *Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3) and community college and university clinics.*

6.3. *Sole proprietorships, group practices, partnerships, or corporations that provide health care services by licensed health care practitioners pursuant to chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484, 486, 490, 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, which are wholly owned by licensed health care practitioners or the licensed health care practitioner and the spouse, parent, or child of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, no health care practitioner may supervise services beyond the scope of the practitioner's license.*

7. *Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.*

Section 9. *The amendment made by this act to section 456.0375(1)(b)2.-4., Florida Statutes, is intended to clarify the legislative intent of that paragraph as it existed at the time the paragraph initially took effect. Accordingly, section 456.0375(1)(b)2.-4., Florida Statutes, as amended by this act shall operate retroactively to October 1, 2001.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: *excluding certain entities from clinic registration requirements; providing retroactive application;*

Amendment 5 (204612)(with title amendment)—On page 28, line 1 through page 38, line 24, delete those lines and insert:

Section 18. Section 458.303, Florida Statutes, is amended to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(1) The provisions of ss. 458.301, 458.303, 458.305, 458.307, 458.309, 458.311, ~~458.313~~, 458.315, ~~458.317~~, 458.319, 458.321, 458.327, 458.329, 458.331, 458.337, 458.339, 458.341, 458.343, 458.345, and 458.347 shall have no application to:

(a) Other duly licensed health care practitioners acting within their scope of practice authorized by statute.

(b) Any physician lawfully licensed in another state or territory or foreign country, when meeting duly licensed physicians of this state in consultation.

(c) Commissioned medical officers of the Armed Forces of the United States and of the Public Health Service of the United States while on active duty and while acting within the scope of their military or public health responsibilities.

(d) Any person while actually serving without salary or professional fees on the resident medical staff of a hospital in this state, subject to the provisions of s. 458.321.

(e) Any person furnishing medical assistance in case of an emergency.

(f) The domestic administration of recognized family remedies.

(g) The practice of the religious tenets of any church in this state.

(h) Any person or manufacturer who, without the use of drugs or medicine, mechanically fits or sells lenses, artificial eyes or limbs, or other apparatus or appliances or is engaged in the mechanical examination of eyes for the purpose of constructing or adjusting spectacles, eyeglasses, or lenses.

(2) Nothing in s. 458.301, s. 458.303, s. 458.305, s. 458.307, s. 458.309, s. 458.311, ~~s. 458.313~~, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, or s. 458.347 shall be construed to prohibit any service rendered by a registered nurse or a licensed practical nurse, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant in accordance with the provisions of s. 458.3485.

Section 19. Section 458.311, Florida Statutes, is amended to read:

(Substantial rewording of section. See

s. 458.311, F.S., for present text.)

458.311 *Licensure; requirements; fees.*—

(1) *Any person desiring to be licensed as a physician shall apply to the department on forms furnished by the department. The department shall*

license each applicant who the board certifies has met the provisions of this section.

(2) *Each applicant must demonstrate compliance with the following:*

(a) *Has completed the application form and remitted a nonrefundable application fee not to exceed \$500.*

(b) *Is at least 21 years of age.*

(c) *Is of good moral character.*

(d) *Has not committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331.*

(e) *Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the department for the criminal history check of the applicant.*

(f) *Has caused to be submitted to the department core credentials verified by the Federation Credentials Verification Service of the Federation of State Medical Boards.*

(g) *For an applicant holding a valid active license in another state, has submitted evidence of the active licensed practice of medicine in another jurisdiction for at least 2 of the immediately preceding 4 years or evidence of successful completion of either a board-approved postgraduate training program within 2 years preceding filing of an application or a board-approved clinical competency examination within the year preceding the filing of an application for licensure. For purposes of this paragraph, the term "active licensed practice of medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, those designated as medical directors under s. 641.495(11) who are practicing medicine, and those on the active teaching faculty of an accredited medical school. If the applicant fails to meet the requirements of this paragraph, the board may impose conditions on the license, including, but not limited to, supervision of practice.*

(3) *Each applicant must demonstrate that he or she has complied with one of the following:*

(a) *Is a graduate of an allopathic medical school or allopathic college recognized and approved by an accrediting agency recognized by the United States Department of Education or is a graduate of an allopathic medical school or allopathic college within a territorial jurisdiction of the United States recognized by the accrediting agency of the governmental body of that jurisdiction; or*

(b) *Is a graduate of an allopathic international medical school registered with the World Health Organization and has had his or her medical credentials evaluated by the Educational Commission for Foreign Medical Graduates, holds an active, valid certificate issued by that commission, and has passed the examination utilized by that commission. However, a graduate of an international medical school need not present the certificate issued by the Educational Commission for Foreign Medical Graduates or pass the examination utilized by that commission if the graduate has:*

1. *Received a bachelor's degree from an accredited United States college or university.*

2. *Studied at a medical school which is recognized by the World Health Organization.*

3. *Completed all of the formal requirements of the international medical school, except the internship or social service requirements, and passed part I of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.*

4. *Completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the Council on Medical Education of the American Medical Association and, upon completion, passed part II of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.*

(4) Each applicant must demonstrate that he or she has completed an Accreditation Council for Graduate Medical Education (ACGME) approved residency, as defined by board rule, of at least 2 years, or a fellowship of at least 2 years in one specialty area which is counted toward regular or subspecialty certification by a board recognized and certified by the American Board of Medical Specialties. However, applicants who meet the requirements of paragraph (3)(a) who completed their training prior to October 1, 2003, must demonstrate completion of at least 1 year of an approved residency.

(5)(a) Each applicant must demonstrate that he or she has complied with one of the following examination requirements:

1. Prior to January 1, 2000, has obtained a passing score, as established by rule of the board, on the licensure examination of the National Board of Medical Examiners (NBME), the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), the United States Medical Licensing Examination (USMLE), or a combination thereof;

2. On or after January 1, 2000, has obtained a passing score on all three steps of the United States Medical Licensing Examination (USMLE); or

3. Has obtained a passing score on a state board examination or the Canadian licensing examination (LLMCC) if the applicant has a current active license in at least one other jurisdiction of the United States or Canada and has practiced pursuant to such licensure continuously for the immediately preceding 10 years without encumbrance on the license.

(b) As prescribed by board rule, the board may require an applicant who does not pass any step of the national licensing examination after five attempts to complete additional remedial education or training.

(c) As prescribed by board rule, the board may require an applicant who does not pass all steps of the United States Medical Licensing Examination (USMLE) within 7 years to complete additional remedial education or training or to retake the step of the examination which the applicant passed first.

(6) The department and the board shall ensure that applicants for licensure meet the criteria of this section through an investigative process.

(7) The board may not certify to the department for licensure any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this chapter until such investigation is completed. Upon completion of the investigation, the provisions of s. 458.331 shall apply. Furthermore, the department may not issue an unrestricted license to any individual who has committed any act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331. When the board finds that an individual has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331, the board may enter an order imposing one or more of the terms set forth in s. 456.072(2).

(8) The board may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to carry out the provisions of this section, which shall be applied on a uniform and consistent basis.

(9) When the board determines that any applicant for licensure has failed to meet, to the board's satisfaction, each of the appropriate requirements set forth in this section, it may enter an order requiring one or more of the following terms:

(a) Refusal to certify to the department an application for licensure, certification, or registration;

(b) Certification to the department of an application for licensure, certification, or registration with restrictions on the scope of practice of the licensee; or

(c) Certification to the department of an application for licensure, certification, or registration with placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

Section 20. Subsection (5) of section 458.3124, Florida Statutes, is amended to read:

458.3124 Restricted license; certain experienced foreign-trained physicians.—

(5) Notwithstanding s. 458.311(3) and (4) ~~(1)(f)~~, a person who successfully meets the requirements of this section and who successfully passes Step III of the United States Medical Licensing Examination is eligible for full licensure as a physician.

Section 21. Section 458.315, Florida Statutes, is amended to read:

(Substantial rewording of section. See

s. 458.315, F.S., for present text.)

458.315 Limited licenses.—

(1) Any person desiring to obtain a limited license shall apply to the department on forms furnished by the department. The department shall license each applicant who the board certifies:

(a) Has submitted to the department, with an application and fee not to exceed \$300, a statement stating that he or she has been licensed to practice medicine in any jurisdiction or territory of the United States or Canada for at least 2 years and intends to practice only pursuant to the restrictions of a limited license granted pursuant to this section. However, if the physician will only use the limited license for noncompensated practice, and submits a statement from the employing agency or institution stating that he or she will not receive compensation for any service involving the practice of medicine, the application fee and all licensure fees shall be waived.

(b) Has submitted evidence of the active licensed practice of medicine in any jurisdiction or territory of the United States or Canada for at least 2 of the immediately preceding 4 years. For purposes of this paragraph, the term "active licensed practice of medicine" means that practice of medicine by physicians, including those employed by any government entity in community or public health, as defined by this chapter, those designated as medical directors under s. 641.495(11) who are practicing medicine, and those on the active teaching faculty of an accredited medical school. If it has been more than 3 years since active practice was conducted by the applicant, a licensed physician approved by the board shall supervise the applicant for a period of 6 months after he or she is granted a limited license for practice, unless the board determines that a shorter period of supervision will be sufficient to ensure that the applicant is qualified for licensure. Procedures for such supervision shall be established by the board.

(c) Has submitted to the department a set of fingerprints on a form and under procedures by the department for the criminal history check of the applicant.

(d) Has not committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331.

(2) After approval of an application under this section, a limited license may not be issued until the applicant provides to the board an affidavit that there have been no substantial changes in his or her status since initial application.

(3) The recipient of a limited license used for noncompensated practice shall only practice in the employ of programs or facilities that provide uncompensated health care services by volunteer licensed health care professionals to low-income persons whose family income does not exceed 120 percent of the federal poverty level or to uninsured persons. These facilities shall include, but not be limited to, the department, community and migrant health centers funded under s. 330 of the Public Health Service Act, and volunteer health care provider programs contracted with the department to provide uncompensated care under the provisions of s. 766.1115.

(4) The recipient of a limited license used for compensated practice shall only practice in the employ of certain programs and facilities that provide health care services and are located within federally designated primary care health professional shortage areas, unless otherwise approved by the Secretary of Health. These programs and facilities shall

include, but not be limited to, the department, the Department of Corrections, county or municipal correctional facilities, the Department of Juvenile Justice, the Department of Children and Family Services, and those programs and facilities funded under s. 330 of the Public Health Service Act.

(5) The recipient of a limited license shall, within 30 days after accepting employment, notify the board of all approved institutions in which the licensee practices and all approved institutions in which the licensee's practice privileges have been denied. Evidence of noncompensated employment shall be required for the fee waiver under paragraph (1)(a).

(6) Upon renewal, a limited licenseholder shall, in addition to complying with other applicable provisions of this chapter, document compliance with the restrictions prescribed in this section.

(7) Any person holding an active or inactive license to practice medicine in the state may convert that license to a limited license for the purpose of providing volunteer, uncompensated care for low-income Floridians. The licensee must submit a statement from the employing agency or institution stating that he or she will not receive compensation for any service involving the practice of medicine. All licensure fees, including neurological injury compensation assessments, shall be waived.

(8) Nothing in this section limits in any way any policy by the board otherwise authorized by law to grant licenses to physicians duly licensed in other states under conditions less restrictive than the requirements of this section. Notwithstanding any other provision of this section, the board may refuse to authorize a physician otherwise qualified to practice in the employ of any agency or institution otherwise qualified if the agency or institution has caused or permitted violations of the provisions of this chapter which it knew or should have known were occurring.

Section 22. Subsection (4) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(4) ~~Notwithstanding the provisions of s. 456.033,~~ A physician may complete continuing education on end-of-life care and palliative care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 23. Paragraph (c) of subsection (5) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(c) Any person holding a limited license pursuant to s. 458.315 ~~458.317~~ and practicing under the scope of such limited license.

Section 24. Any physician who meets the requirements for limited licensure under section 458.315 or section 459.0075, Florida Statutes, may be certified by the Board of Medicine or the Board of Osteopathic Medicine for a limited license to conduct clinical research if the physician previously held a Florida medical license that was unencumbered and not under investigation at the time that the license became null and void for nonrenewal or was voluntarily surrendered.

Section 25. Paragraph (t) of subsection (1) and subsections (6) and (9) of section 458.331, Florida Statutes, are amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three

or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of \$50,000 ~~\$25,000~~ each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the physician. As used in this paragraph, "gross malpractice" or "the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances," shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.

(6) Upon the department's receipt from an insurer or self-insurer of a report of a closed claim against a physician pursuant to s. 627.912 or from a health care practitioner of a report pursuant to s. 456.049, or upon the receipt from a claimant of a presuit notice against a physician pursuant to s. 766.106, the department shall review each report and determine whether it potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply. However, if it is reported that a physician has had three or more claims with indemnities exceeding \$50,000 ~~\$25,000~~ each within the previous 5-year period, the department shall investigate the occurrences upon which the claims were based and determine if action by the department against the physician is warranted.

(9) When an investigation of a physician is undertaken, the department shall promptly furnish to the physician or the physician's attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(6); a report of an adverse incident which is provided to the department pursuant to s. 395.0197; a report of peer review disciplinary action submitted to the department pursuant to s. 395.0193(4) or s. 458.337, providing that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(8) and 458.337(3); a report of a closed claim submitted pursuant to s. 627.912; a presuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 30 ~~45~~ days after service to the physician of the complaint or document. The physician's written response shall be considered by the probable cause panel.

Section 26. Paragraph (c) of subsection (1) of section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty.—

(1) Any person desiring to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training which leads to subspecialty board certification in this state, or any person desiring to practice as a resident physician, assistant resident physician, house physician, intern, or fellow in fellowship training in a teaching hospital in this state as defined in s. 408.07(44) or s. 395.805(2), who does not hold a valid, active license issued under this chapter shall apply to the department to be registered and shall remit a fee not to exceed \$300 as set by the board. The department shall register any applicant the board certifies has met the following requirements:

(c) Is a graduate of a medical school or college as specified in s. 458.311(3) ~~(4)(f)~~.

Section 27. Paragraph (b) of subsection (7) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(b)1. Notwithstanding subparagraph (a)2. and sub-subparagraph (a)3.a., the department shall examine each applicant who the Board of Medicine certifies:

a. Has completed the application form and remitted a nonrefundable application fee not to exceed \$500 and an examination fee not to exceed \$300, plus the actual cost to the department to provide the examination. The examination fee is refundable if the applicant is found to be ineligible to take the examination. The department shall not require the applicant to pass a separate practical component of the examination. For examinations given after July 1, 1998, competencies measured through practical examinations shall be incorporated into the written examination through a multiple-choice format. The department shall translate the examination into the native language of any applicant who requests and agrees to pay all costs of such translation, provided that the translation request is filed with the board office no later than 9 months before the scheduled examination and the applicant remits translation fees as specified by the department no later than 6 months before the scheduled examination, and provided that the applicant demonstrates to the department the ability to communicate orally in basic English. If the applicant is unable to pay translation costs, the applicant may take the next available examination in English if the applicant submits a request in writing by the application deadline and if the applicant is otherwise eligible under this section. To demonstrate the ability to communicate orally in basic English, a passing score or grade is required, as determined by the department or organization that developed it, on the test for spoken English (TSE) by the Educational Testing Service (ETS), the test of English as a foreign language (TOEFL) by ETS, a high school or college level English course, or the English examination for citizenship, Immigration and Naturalization Service. A notarized copy of an Educational Commission for Foreign Medical Graduates (ECFMG) certificate may also be used to demonstrate the ability to communicate in basic English; and

b.(I) Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board of Medicine as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(2)-(7)(1), (3), (4), and (5), with the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates; was eligible and made initial application for certification as a physician assistant in this state between July 1, 1990, and June 30, 1991; and was a resident of this state on July 1, 1990, or was licensed or certified in any state in the United States as a physician assistant on July 1, 1990; or

(II) Completed all coursework requirements of the Master of Medical Science Physician Assistant Program offered through the Florida College of Physician's Assistants prior to its closure in August of 1996. Prior to taking the examination, such applicant must successfully complete any clinical rotations that were not completed under such program prior to its termination and any additional clinical rotations with an appropriate physician assistant preceptor, not to exceed 6 months, that are determined necessary by the council. The boards shall determine, based on recommendations from the council, the facilities under which such incomplete or additional clinical rotations may be completed and shall also determine what constitutes successful completion thereof, provided such requirements are comparable to those established by accredited physician assistant programs. This sub-sub-subparagraph is repealed July 1, 2001.

2. The department may grant temporary licensure to an applicant who meets the requirements of subparagraph 1. Between meetings of the council, the department may grant temporary licensure to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. A temporary license expires 30 days after receipt and notice of scores to the licenseholder from the first available examination specified in subparagraph 1. following licensure by the department. An applicant who fails the proficiency examination is no longer temporarily licensed, but may apply for a one-time extension of temporary licensure after reapplying for the next available examination. Extended licensure shall expire upon failure of the licenseholder to sit for the next available examination or upon receipt and notice of scores to the licenseholder from such examination.

3. Notwithstanding any other provision of law, the examination specified pursuant to subparagraph 1. shall be administered by the

department only five times. Applicants certified by the board for examination shall receive at least 6 months' notice of eligibility prior to the administration of the initial examination. Subsequent examinations shall be administered at 1-year intervals following the reporting of the scores of the first and subsequent examinations. For the purposes of this paragraph, the department may develop, contract for the development of, purchase, or approve an examination that adequately measures an applicant's ability to practice with reasonable skill and safety. The minimum passing score on the examination shall be established by the department, with the advice of the board. Those applicants failing to pass that examination or any subsequent examination shall receive notice of the administration of the next examination with the notice of scores following such examination. Any applicant who passes the examination and meets the requirements of this section shall be licensed as a physician assistant with all rights defined thereby.

Section 28. Subsection (5) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(5) ~~Notwithstanding the provisions of s. 456.033,~~ An osteopathic physician may complete continuing education on end-of-life and palliative care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, lines 7-23, delete those lines and insert: amending s. 458.303, F.S.; conforming cross-references; amending s. 458.311, F.S.; consolidating and revising provisions relating to requirements for licensure of physicians; amending s. 458.3124, F.S.; conforming a cross-reference; amending s. 458.315, F.S.; consolidating and revising provisions relating to requirements for limited licensure of physicians; amending s. 458.319, F.S.; deleting a cross-reference; amending s. 458.320, F.S.; conforming a cross-reference; providing requirements for issuance of a physician's license for clinical research purposes; amending s. 458.331, F.S.; increasing the threshold amount of claims against a physician which represent repeated malpractice; revising a reporting requirement, to conform; reducing the time period for a physician to respond to information contained in a complaint or other documentation; amending ss. 458.345 and 458.347, F.S.; conforming cross-references; amending s. 459.008, F.S.; deleting a cross-reference;

Amendment 6 (091960)(with title amendment)—On page 60, line 20 through page 63, line 10, delete those lines and insert:

Section 42. Paragraph (a) of subsection (4) of section 464.0205, Florida Statutes, is amended to read:

464.0205 Retired volunteer nurse certificate.—

(4) A retired volunteer nurse receiving certification from the board shall:

(a) Work under the direct supervision of the director of a county health department, a physician working under a limited license issued pursuant to s. 458.315 ~~458.317~~ or s. 459.0075, a physician licensed under chapter 458 or chapter 459, an advanced registered nurse practitioner certified under s. 464.012, or a registered nurse licensed under s. 464.008 or s. 464.009.

Section 43. Subsections (1) and (5) of section 464.203, Florida Statutes, are amended and subsections (8) and (9) are added to that section, to read:

464.203 Certified nursing assistants; certification requirement.—

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required *statewide criminal screening through the Department of Law Enforcement, including Level I screening pursuant to chapter 435, or, if the applicant has not maintained continuous residency within the state for 5 years immediately preceding the date of application, Level II screening which includes a fingerprint check through the Department of Law Enforcement and the Federal Bureau of Investigation pursuant to chapter 435, Level I or Level*

screening pursuant to s. 400.215 and meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or
2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state's certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

(5) Certification as a nursing assistant, in accordance with this part, *may be renewed continues in effect* until such time as the nursing assistant allows a period of 24 consecutive months to pass during which period the nursing assistant fails to perform any nursing-related services for monetary compensation. When a nursing assistant fails to perform any nursing-related services for monetary compensation for a period of 24 consecutive months, the nursing assistant must complete a new training and competency evaluation program or a new competency evaluation program.

(8) *The department shall renew a certificate upon receipt of the renewal application and imposition of a fee of not less than \$20 and not more than \$50 biennially. The department shall adopt rules establishing a procedure for the biennial renewal of certificates. Any certificate not renewed by July 1, 2005, shall be void.*

(9) *Notwithstanding any provision of law to the contrary, any entity required to conduct a Level I or Level II screening, pursuant to chapter 435, is exempt from rescreening any certified nursing assistant upon employment if the screening date on the certificate issued by the board is within the last 12 months, the certified nursing assistant has not been unemployed for more than 180 days, and the nursing assistant attests under penalty of perjury to not having been convicted of a disqualifying offense since the completion of such screening.*

And the title is amended as follows:

On page 6, line 26, after the semicolon (;) insert: amending s. 464.0205, F.S.; conforming a cross-reference;

Senator Bennett moved the following amendment:

Amendment 7 (423980)(with title amendment)—On page 63, between lines 24 and 25, insert:

Section 44. Paragraph (a) of subsection (2) of section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.—

(2) To advise the board, it is the intent of the Legislature that councils be appointed as specified in paragraphs (a), (b), and (c). The department shall provide administrative support to the councils and shall provide public notice of meetings and agenda of the councils. Councils shall include at least one board member who shall chair the council and shall include nonboard members. All council members shall be appointed by the board chair. Council members shall be appointed for 4-year terms, and all members shall be eligible for reimbursement of expenses in the manner of board members.

(a) A Council on Dental Hygiene shall be appointed by the board chair and shall include one dental hygienist member of the board, who shall chair the council, one dental member of the board, and three dental hygienists who are actively engaged in the practice of dental hygiene in this state. The council shall meet at the request of the board chair, a majority of the members of the board, or the council chair, *if the council meets at least twice each year.* The council is charged with the responsibility of and shall meet for the purpose of developing rules and policies for recommendation to the board, ~~which the board shall consider,~~ on matters pertaining to that part of dentistry consisting of educational, preventive, or therapeutic dental hygiene services; dental hygiene licensure, discipline, or regulation; and dental hygiene education. *Rule and policy recommendations of the council shall be considered by the board at its next regularly scheduled meeting in the same manner it considers rule and policy recommendations from designated subcommittees of the board. Any rule or policy proposed by the board pertaining to the specified part of dentistry defined by this paragraph shall be referred to the council for a recommendation prior to final action by the board.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 2, after the semicolon (;) insert: amending s. 466.004, F.S.; requiring the Council on Dental Hygiene to meet at least twice a year; providing for consideration by the Board of Dentistry of rule and policy recommendations of the council;

Senator Bennett moved the following amendment to **Amendment 7** which was adopted:

Amendment 7A (274008)(with title amendment)—On page 2, line 22, insert:

Section 45. Section 466.055, Florida Statutes, is created to read:

466.055 Board of Dentistry Empowerment Act.—

(1) *If requested by the Board of Dentistry, it shall direct the department whom to appoint as executive director pursuant to the rules of the state personnel system. The committee conducting interviews of candidates for executive director shall consist of the board chairman or his designee and the secretary or his or her designee. A list of final candidates shall be submitted to the board, which shall approve the candidate to be hired. The approval process shall include the right of the board to interview the list of submitted candidates. The board may reject all the candidates on the submitted list and request that a new list be submitted by the interview committee. The executive director shall perform those duties and responsibilities specific to the Board of Dentistry and shall exclusively serve the Board of Dentistry. The board shall monitor the performance of the executive director, based on established performance standards and should the board determine, by a majority vote, that the performance of the executive director is consistently below the performance standards of the board and thus unacceptable, the board shall promptly notify the department of its findings, in writing, and the department shall take appropriate action to replace the executive director, pursuant to the state personnel rules.*

(2) *The executive director shall be responsible for overseeing the hiring of all other staff members who work directly for the executive director and who perform services for the board.*

(3) *The department shall contract for a dental intake officer when requested by the Board of Dentistry in accordance with the state personnel system and qualifications established for such position by the Board of Dentistry. The qualifications for the position shall include a requirement that the candidate be a licensed Florida dentist in good standing.*

(4) *The dental intake officer shall be responsible for determining the legal sufficiency of all dental complaints received by the department within 5 working days after the complaint is filed; advising the board regarding dental health regulation issues; and advising field investigators on dental issues related to the complaints to assure that complaints are properly investigated in a timely and efficacious manner.*

(5) *The Board of Dentistry, in consultation with the department, shall establish reasonable and comprehensive performance parameters for the prosecution of disciplinary cases by the department. Such parameters shall reflect the quality and quantity of services to be provided to the board, including, but not limited to, the proportion of cases that are*

successfully prosecuted through final hearing and appeal if such cases involve irreparable harm or injury or the immediate threat of irreparable harm or injury to the patient. The board shall conduct an annual evaluation to determine if the department has met the established performance parameters. A finding by the board that the department has failed to meet established parameters shall enable the board, by a majority vote, to instruct the department to retain sufficient outside contractual prosecutorial services pursuant to s. 287.057(3), to fulfill the immediate and foreseeable prosecutorial needs of the board. Contract negotiations and vendor selection shall be conducted in consultation with the chairman of the board or his designee. Each contract for prosecutorial services shall include, at a minimum, the performance parameters developed by the board for its assessment of the department.

(6) If requested, a representative of testing services of the Department of Health shall appear before the board, or a committee of the board, following the completion of each examination cycle to discuss examination issues. If the board identifies issues to be addressed, testing services shall report to the board, as requested at the next board meeting, on its progress in addressing the issues identified by the board.

(7)(a) In conjunction with each fiscal year budgetary cycle, the department, in consultation with the board, shall develop a Board of Dentistry spending plan encompassing anticipated revenue of all types along with all anticipated operating expenses of the board and associated support services of the department, which shall include all direct and allocated expenses necessary to enable the board to fulfill its responsibilities. All expenditure detail as provided herein shall reflect the methodology and calculations of the department in allocating common expenses among all regulatory boards.

(b) The Board of Dentistry shall have spending authority over discretionary budgetary items, as determined by the department and the board jointly. Discretionary budgetary items shall include the selection of board meeting venue, hotel facilities, and accommodations; travel of board members and necessary staff to all meetings of the board; attendance by board members at meetings and conferences deemed to be important by the board in fulfilling its responsibilities, monitoring performance, and confirming the accuracy of information provided to the board or others which relates to the duties and responsibilities of the board; and an operational contingency. Operational contingency is that portion of cash on hand that exceeds that required for the 5-year spending plan as described in s. 456.005. The operational contingency may be used for a special project by the board in fulfilling its responsibilities if a deficit does not or would not exist for the profession. In exercising its spending authority over discretionary budget items, the board must adhere to all applicable state laws and directives; assure that all meeting locations are accessible to the public and licensees; assure that board meetings are conducted in an effective and efficient manner for the public and licensees; assure that the minimal number of board members or staff attend any meeting or conference; and assure the maximum use of technology. When requested by the board, the department shall provide timely procurement assistance to facilitate all discretionary expenditures of the board.

(8)(a) The department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1 of each year on the effectiveness and efficiency of this section, including:

1. The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing revenues;
2. The nature and extent of all services provided to the board by the department;
3. The total cost allocated by the department for each service provided by the department to the board and the amount and percent by which each cost is appropriate to dentistry's pro-rata share of the total cost of such services provided by the department to all affected boards, councils, and professions;
4. The number of licensure examinations taken, the fees collected for licensure examination, and the time from which a candidate for licensure completed the required examination to the time in which the candidate received the results;
5. The number of licenses issued, revoked, or suspended;

6. The number of disciplinary complaints received, determined to be legally sufficient, investigated, referred to the board's probable cause panel, prosecuted, subject to final board action, and appealed; the number, maximum, and average duration of licenses suspended; the number of licenses revoked; the number of cases spanning more than 180,270, and 365 days from receipt of complaints to submission to the board's probable cause panel; the proportion of cases which were eligible for and the number of cases actually resolved by citation; the proportion of cases where probable cause was found; the number of cases where probable cause was found that were not prosecuted or that did not result in stipulated agreements; the number of cases involving stipulated agreements; the number of cases involving stipulated agreements which were changed by the board and the number of cases involving stipulated agreements that were rejected without modification by the board; the number of cases taking in excess of 1 year from the date of receipt of a complaint to final board action; the number of cases involving formal hearings; the status of all cases appealed; the number of cases where licensure suspension or revocation was stayed pending appeal; the number of emergency suspension orders issued; the average and maximum range of costs of complaint investigations and prosecutions; and the amount of fines and expenses collected by type of cases prosecuted;

7. The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 456.079; and

8. Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the board and the department.

(b) The department shall include in the report any statement, comment, suggestion, recommendation, or objection made by the board in response to the report.

And the title is amended as follows:

On page 3, line 4, after the semicolon (;) insert: creating s. 466.055, F.S.; providing for the appointment of an executive director; providing for duties, and board oversight; requiring director to oversee staff; requiring the department to contract for a dental intake officer and providing qualifications; requiring certain responsibilities of the officer; requiring the board to establish certain performance parameters for departmental handling of disciplinary cases, and consequences; requiring testing services to report to the board if requested; requiring a board spending plan and its content; requiring board spending authority over discretionary budget items; requiring a department report of certain information; providing for a board response;

Amendment 7 as amended was adopted.

Senator Peaden moved the following amendment which was adopted:

Amendment 8 (223832)(with title amendment)—On page 75, between lines 21 and 22, insert:

Section 54. Subsection (3) of section 491.0147, Florida Statutes, is amended to read:

491.0147 Confidentiality and privileged communications.—Any communication between any person licensed or certified under this chapter and her or his patient or client shall be confidential. This secrecy may be waived under the following conditions:

(3)(a) When there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed or certified under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

(b) There shall be no civil or criminal liability arising from the disclosure of otherwise confidential communications by a person licensed or certified under this chapter when the disclosure is made pursuant to paragraph (a).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 7, line 26, after the first semicolon (;) insert: amending s. 491.0147, F.S.; providing an exemption from liability for disclosure of confidential information under certain circumstances;

Senator Webster moved the following amendment which was adopted:

Amendment 9 (252946)(with title amendment)—On page 79, between lines 3 and 4, insert:

Section 56. Paragraph (a) of subsection (4) of section 766.314, Florida Statutes, is amended to read:

766.314 Assessment; plan of operation.—

(4) The following persons and entities shall pay into the association an initial assessment in accordance with the plan of operation:

(a) On or before October 1, 1988, each hospital licensed under chapter 395 shall pay an initial assessment of \$50 per infant delivered in the hospital during the prior calendar year, as reported to the Agency for Health Care Administration; provided, however, that a hospital owned or operated by the state or a county, special taxing district, or other political subdivision of the state shall not be required to pay the initial assessment or any assessment required by subsection (5). The term “infant delivered” includes live births and not stillbirths, but the term does not include infants delivered by employees or agents of the Board of Regents, or those born in a teaching hospital as defined in s. 408.07, or those born in a family practice teaching hospital designated pursuant to s. 395.806 which was exempted by the association from assessments for fiscal years 1997-1998 through 2001-2002. The initial assessment and any assessment imposed pursuant to subsection (5) may not include any infant born to a charity patient (as defined by rule of the Agency for Health Care Administration) or born to a patient for whom the hospital receives Medicaid reimbursement, if the sum of the annual charges for charity patients plus the annual Medicaid contractuals of the hospital exceeds 10 percent of the total annual gross operating revenues of the hospital. The hospital is responsible for documenting, to the satisfaction of the association, the exclusion of any birth from the computation of the assessment. Upon demonstration of financial need by a hospital, the association may provide for installment payments of assessments.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 2, after the semicolon (;) insert: amending s. 766.314, F.S.; excluding infants born in certain family practice teaching hospitals from assessments used to fund the Florida Birth-Related Neurological Injury Compensation Plan;

Senator Peaden moved the following amendments which were adopted:

Amendment 10 (464078)(with title amendment)—On page 79, lines 4-23, delete those lines and insert:

Section 56. Section 456.031, Florida Statutes, is amended to read:

456.031 Requirement for instruction on domestic violence.—

(1)(a) The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, part I of chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 1-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, as part of initial licensure, biennial relicensure, or recertification. The course shall consist of a skills-based curriculum that includes practice protocols for identifying and treating a victim of domestic violence consistent with the profession and instructions on practical applications. For purposes of this section, the term “skills-based curriculum” means a curriculum that details methods of practical application to improve responses to domestic violence victims through culturally competent methods of routine screening, assessment, intervention, and health-records documentation. Each licensee must complete 2 hours of continuing education on domestic violence every 4 years, as prescribed by board rule. Initial applicants for licensure must be allowed 1 year following the date of licensure to complete the required course information on the number of patients in that professional’s practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other

advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b) Each such licensee or certificateholder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for each biennial renewal.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that requires a licensee to complete an educational course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(b)(4) Any person holding two or more licenses subject to the provisions of this subsection shall be permitted to show proof of having taken one board-approved course on domestic violence, for purposes of initial licensure, relicensure, or recertification for additional licenses.

(c) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 456.072(1)(k). In addition to discipline by the board, the licensee shall be required to complete such course.

(2) The board shall also require, as a condition of granting a license under any chapter specified in paragraph (1)(a), that each applicant for initial licensure under the appropriate chapter complete an educational course acceptable to the board on domestic violence which is substantially equivalent to the course required in subsection (1). An applicant who has not taken such course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete such requirement.

(3)(a) In lieu of completing a course as required in subsection (1), a licensee or certificateholder may complete a course in end-of-life care and palliative health care, if the licensee or certificateholder has completed an approved domestic violence course in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved domestic violence education course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

(2)(4) Each board may adopt rules to carry out the provisions of this section.

(5) Each board shall report to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate substantive committees of the Legislature by March 1 of each year as to the implementation of and compliance with the requirements of this section.

Section 57. Paragraph (b) of subsection (4) of section 766.314, Florida Statutes, is amended to read:

766.314 Assessments; plan of operation.—

(4) The following persons and entities shall pay into the association an initial assessment in accordance with the plan of operation:

(b)1. On or before October 15, 1988, all physicians licensed pursuant to chapter 458 or chapter 459 as of October 1, 1988, other than participating physicians, shall be assessed an initial assessment of \$250, which must be paid no later than December 1, 1988.

2. Any such physician who becomes licensed after September 30, 1988, and before January 1, 1989, shall pay into the association an initial assessment of \$250 upon licensure.

3. Any such physician who becomes licensed on or after January 1, 1989, shall pay an initial assessment equal to the most recent assessment made pursuant to this paragraph, paragraph (5)(a), or paragraph (7)(b).

4. However, if the physician is a physician specified in this subparagraph, the assessment is not applicable:

a. A resident physician, assistant resident physician, or intern in an approved postgraduate training program, as defined by the Board of Medicine or the Board of Osteopathic Medicine by rule;

b. A retired physician who has withdrawn from the practice of medicine but who maintains an active license as evidenced by an affidavit filed with the Department of Health. Prior to reentering the practice of medicine in this state, a retired physician as herein defined must notify the Board of Medicine or the Board of Osteopathic Medicine and pay the appropriate assessments pursuant to this section;

c. A physician who holds a limited license pursuant to s. 458.315 ~~458.317~~ and who is not being compensated for medical services;

d. A physician who is employed full time by the United States Department of Veterans Affairs and whose practice is confined to United States Department of Veterans Affairs hospitals; or

e. A physician who is a member of the Armed Forces of the United States and who meets the requirements of s. 456.024.

f. A physician who is employed full time by the State of Florida and whose practice is confined to state-owned correctional institutions, a county health department, or state-owned mental health or developmental services facilities, or who is employed full time by the Department of Health.

Section 58. Paragraph (a) of subsection (1) of section 817.567, Florida Statutes, is amended to read:

817.567 Making false claims of academic degree or title.—

(1) No person in the state may claim, either orally or in writing, to possess an academic degree, as defined in s. 1005.02, or the title associated with said degree, unless the person has, in fact, been awarded said degree from an institution that is:

(a) Accredited by a regional or professional accrediting agency recognized by the United States Department of Education or the *Council for Higher Education Commission on Recognition of Postsecondary Accreditation*;

Section 59. Subsection (13) of section 1009.992, Florida Statutes, is amended to read:

1009.992 Definitions.—As used in this act:

(13) “Institution” means any college or university which, by virtue of law or charter, is accredited by and holds membership in the *Council for Higher Education Commission on Recognition of Postsecondary Accreditation*; which grants baccalaureate or associate degrees; which is not a pervasively sectarian institution; and which does not discriminate in the admission of students on the basis of race, color, religion, sex, or creed.

Section 60. Section 1012.46, Florida Statutes, is amended to read:

1012.46 Athletic trainers.—

(1) School districts may establish and implement an athletic injuries prevention and treatment program. Central to this program should be the employment and availability of persons trained in the prevention and treatment of physical injuries which may occur during athletic activities. The program should reflect opportunities for progressive advancement and compensation in employment as provided in subsection (2) and meet certain other minimum standards developed by the Department of Education. ~~The goal of the Legislature is to have school districts employ and have available a full-time teacher athletic trainer in each high school in the state.~~

(2) To the extent practicable, a school district program should include the following employment classification and advancement scheme:

(a) First responder.—To qualify as a first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 1012.56, be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in courses such as care and prevention of athletic injuries, anatomy, physiology, nutrition, counseling, and other similar courses approved by the Commissioner of Education. This person may only administer first aid and similar care, and

shall not hold himself or herself out to the school district or public as an athletic trainer pursuant to part XIII of chapter 468.

(b) ~~Teacher~~ Athletic trainer.—To qualify as ~~an a-teacher~~ athletic trainer, a person must *be licensed as required by part XIII of chapter 468 and may be utilized by the school district as possess* a professional, temporary, part-time, adjunct, or substitute ~~teacher certificate pursuant to s. 1012.35, s. 1012.56, or s. 1012.57, and be licensed as required by part XIII of chapter 468.~~

Section 61. Sections 456.033, 456.034, 458.313, 458.316, 458.3165, and 458.317, Florida Statutes, are repealed.

Section 62. *The Division of Administrative Hearings shall designate at least two administrative law judges who shall specifically preside over actions involving the Department of Health or boards within the Department of Health and a health care practitioner or professional as defined in section 456.001, Florida Statutes. Each designated administrative law judge must be a member of The Florida Bar in good standing and must have experience working in the health care industry or have attained board certification in health care law from The Florida Bar.*

And the title is amended as follows:

On page 8, lines 2-16, delete those lines and insert: discipline; amending s. 456.031, F.S.; revising requirements for licensed health care practitioners to take continuing education relating to domestic violence; amending s. 766.314, F.S.; correcting a cross-reference; amending s. 817.567, F.S.; revising an accrediting agency for institutions awarding academic degrees and titles; amending s. 1009.992, F.S.; revising the definition of the term “institution” to update a reference to an accrediting agency; amending s. 1012.46, F.S.; revising provisions relating to athletic trainers in school districts; removing a legislative goal; revising requirements for athletic trainers used by school districts; repealing ss. 456.033, 456.034, 458.313, 458.316, 458.3165, and 458.317, F.S., relating to instruction on HIV and AIDS, licensure by endorsement, public health certificates, and limited licenses; requiring the Division of Administrative Hearings to designate administrative law judges with specified qualifications for hearings involving certain licensed health care practitioners; specifying qualifications; amending

Amendment 11 (231652)(with title amendment)—On page 86, line 31, insert:

Section 62. Subsection (1) of section 391.025, Florida Statutes, is amended to read:

391.025 Applicability and scope.—

(1) This act applies to health services provided to eligible individuals who are:

(a) Enrolled in the Medicaid program;

(b) Enrolled in the Florida Kidcare program; ~~and~~

(c) Uninsured or underinsured, provided that they meet the financial eligibility requirements established in this act, and to the extent that resources are appropriated for their care; ~~and-~~

(d) *Infants who receive an award of compensation pursuant to s. 766.31(1).*

Section 63. Paragraph (f) is added to subsection (2) of section 391.029, Florida Statutes, to read:

391.029 Program eligibility.—

(2) The following individuals are financially eligible for the program:

(f) *An infant who receives an award of compensation pursuant to s. 766.31(1), provided the Florida Birth-Related Neurological Injury Compensation Association shall reimburse the Children’s Medical Services Network the state’s share of funding, which funding shall be used to obtain matching federal funds under Title XXI of the Social Security Act.*

The department may continue to serve certain children with special health care needs who are 21 years of age or older and who were receiving services from the program prior to April 1, 1998. Such children may be served by the department until July 1, 2000.

Section 64. Section 766.304, Florida Statutes, is amended to read:

766.304 Administrative law judge to determine claims.—The administrative law judge shall hear and determine all claims filed pursuant to ss. 766.301-766.316 and shall exercise the full power and authority granted to her or him in chapter 120, as necessary, to carry out the purposes of such sections. The administrative law judge has exclusive jurisdiction to determine whether a claim filed under this act is compensable. No civil action may be brought until the determinations under s. 766.309 have been made by the administrative law judge. If the administrative law judge determines that the claimant is entitled to compensation from the association, no civil action may be brought or continued in violation of the exclusiveness of remedy provisions of s. 766.303. If it is determined that a claim filed under this act is not compensable, neither the doctrine of collateral estoppel nor res judicata shall prohibit the claimant from pursuing any and all civil remedies available under common law and statutory law. The findings of fact and conclusions of law of the administrative law judge shall not be admissible in any subsequent proceeding; however, the sworn testimony of any person and the exhibits introduced into evidence in the administrative case are admissible as impeachment in any subsequent civil action only against a party to the administrative proceeding, subject to the Rules of Evidence. An award action may not be awarded or paid brought under ss. 766.301-766.316 if the claimant recovers under a settlement or a final judgment is entered in a civil action. The division may adopt rules to promote the efficient administration of, and to minimize the cost associated with, the prosecution of claims.

Section 65. Section 766.305, Florida Statutes, is amended to read:

766.305 Filing of claims and responses; medical disciplinary review.—

(1) All claims filed for compensation under the plan shall commence by the claimant filing with the division a petition seeking compensation. Such petition shall include the following information:

(a) The name and address of the legal representative and the basis for her or his representation of the injured infant.

(b) The name and address of the injured infant.

(c) The name and address of any physician providing obstetrical services who was present at the birth and the name and address of the hospital at which the birth occurred.

(d) A description of the disability for which the claim is made.

(e) The time and place the injury occurred.

(f) A brief statement of the facts and circumstances surrounding the injury and giving rise to the claim.

~~(g) All available relevant medical records relating to the birth-related neurological injury, and an identification of any unavailable records known to the claimant and the reasons for their unavailability.~~

~~(h) Appropriate assessments, evaluations, and prognoses, and such other records and documents as are reasonably necessary for the determination of the amount of compensation to be paid to, or on behalf of, the injured infant on account of the birth-related neurological injury.~~

~~(i) Documentation of expenses and services incurred to date, which indicates any payment made for such expenses and services, and by whom.~~

~~(j) Documentation of any applicable private or governmental source of services or reimbursement relative to the impairments.~~

(2) The claimant shall furnish the division with as many copies of the petition as required for service upon the association, any physician and hospital named in the petition, and the Division of Medical Quality Assurance, along with a \$15 filing fee payable to the Division of Administrative Hearings. Upon receipt of the petition, the division shall immediately serve the association, by service upon the agent designated to accept service on behalf of the association, by registered or certified mail, and shall mail copies of the petition, by registered or certified mail, to any physician, health care provider, and hospital named in the petition, and furnish a copy by regular mail to the Division of Medical Quality Assurance, and the Agency for Health Care Administration.

(3) The claimant shall furnish to the executive director of the Florida Birth-Related Neurological Compensation Association one copy of the following information which shall be filed with the association within 10 days after the filing of the petition as set forth in s. 766.305(1):

(a) All available relevant medical records relating to the birth-related neurological injury and an identification of any unavailable records known to the claimant and the reasons for their unavailability.

(b) Appropriate assessments, evaluations, and prognoses and such other records and documents as are reasonably necessary for the determination of the amount of compensation to be paid to, or on behalf of, the injured infant on account of the birth-related neurological injury.

(c) Documentation of expenses and services incurred to date, which indicates any payment made for such expenses and services and by whom.

(d) Documentation of any applicable private or governmental source of services or reimbursement relative to the impairments.

The information contained in paragraphs (a)-(d) is confidential and exempt pursuant to the provisions of s. 766.315(5)(b).

(4)(3) The association shall have 45 days from the date of service of a complete claim, filed pursuant to subsections (1) and (2), in which to file a response to the petition and to submit relevant written information relating to the issue of whether the injury alleged is a birth-related neurological injury.

(5)(4) Upon receipt of such petition, the Division of Medical Quality Assurance shall review the information therein and determine whether it involved conduct by a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459 that is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(6)(5) Upon receipt of such petition, the Agency for Health Care Administration shall investigate the claim, and if it determines that the injury resulted from, or was aggravated by, a breach of duty on the part of a hospital in violation of chapter 395, it shall take any such action consistent with its disciplinary authority as may be appropriate.

(7)(6) Any claim which the association determines to be compensable may be accepted for compensation, provided that the acceptance is approved by the administrative law judge to whom the claim for compensation is assigned.

Section 66. Subsection (4) is added to section 766.309, Florida Statutes, to read:

766.309 Determination of claims; presumption; findings of administrative law judge binding on participants.—

(4) If it is in the interest of judicial economy or if requested to by the claimant, the administrative law judge may bifurcate the proceeding, addressing compensability and notice pursuant to s. 766.316 first and addressing any award pursuant to s. 766.31 in a separate proceeding. The administrative law judge may issue a final order on compensability and notice which is subject to appeal under s. 766.311, prior to issuance of award pursuant to s. 766.31.

Section 67. Subsection (1) of section 766.31, Florida Statutes, is amended to read:

766.31 Administrative law judge awards for birth-related neurological injuries; notice of award.—

(1) Upon determining that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth, the administrative law judge shall make an award providing compensation for the following items relative to such injury:

(a) Actual expenses for medically necessary and reasonable medical and hospital, habilitative and training, family residential or custodial care, professional residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel. However, such expenses shall not include:

1. Expenses for items or services that the infant has received, or is entitled to receive, under the laws of any state or the Federal Government, *including Medicaid*, except to the extent such exclusion may be prohibited by federal law.

2. Expenses for items or services that the infant has received, or is contractually entitled to receive, from any prepaid health plan, health maintenance organization, or other private insuring entity.

3. Expenses for which the infant has received reimbursement, or for which the infant is entitled to receive reimbursement, under the laws of any state or the Federal Government, *including Medicaid*, except to the extent such exclusion may be prohibited by federal law.

4. Expenses for which the infant has received reimbursement, or for which the infant is contractually entitled to receive reimbursement, pursuant to the provisions of any health or sickness insurance policy or other private insurance program.

Expenses included under this paragraph shall be limited to reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person.

(b)1. Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which award shall not exceed \$100,000. However, at the discretion of the administrative law judge, such award may be made in a lump sum.

2. *A death benefit for the infant in an amount of \$10,000* ~~Payment for funeral expenses not to exceed \$1,500.~~

(c) Reasonable expenses incurred in connection with the filing of a claim under ss. 766.301-766.316, including reasonable attorney's fees, which shall be subject to the approval and award of the administrative law judge. In determining an award for attorney's fees, the administrative law judge shall consider the following factors:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly.

2. The fee customarily charged in the locality for similar legal services.

3. The time limitations imposed by the claimant or the circumstances.

4. The nature and length of the professional relationship with the claimant.

5. The experience, reputation, and ability of the lawyer or lawyers performing services.

6. The contingency or certainty of a fee.

If there is an award of benefits under the plan, the claimants shall not be liable for any attorney's fees incurred in connection with the filing of a claim under ss. 766.301-766.316 other than those fees awarded under this section.

Section 68. Subsection (4) of section 766.314, Florida Statutes, is amended to read:

766.314 Assessments; plan of operation.—

(4) The following persons and entities shall pay into the association an initial assessment in accordance with the plan of operation:

(a) On or before October 1, 1988, each hospital licensed under chapter 395 shall pay an initial assessment of \$50 per infant delivered in the hospital during the prior calendar year, as reported to the Agency for Health Care Administration; provided, however, that a hospital owned or operated by the state or a county, special taxing district, or other political subdivision of the state shall not be required to pay the initial assessment or any assessment required by subsection (5). The term "infant delivered" includes live births and not stillbirths, but the term does not include infants delivered by employees or agents of the board of trustees, ~~Regents~~ or those born in a teaching hospital as defined in s. 408.07, or those born in a family practice teaching hospital as defined in

s. 395.806 that have been deemed by the association as being exempt from assessments since fiscal year 1997 to fiscal year 2001. The initial assessment and any assessment imposed pursuant to subsection (5) may not include any infant born to a charity patient (as defined by rule of the Agency for Health Care Administration) or born to a patient for whom the hospital receives Medicaid reimbursement, if the sum of the annual charges for charity patients plus the annual Medicaid contractuals of the hospital exceeds 10 percent of the total annual gross operating revenues of the hospital. The hospital is responsible for documenting, to the satisfaction of the association, the exclusion of any birth from the computation of the assessment. Upon demonstration of financial need by a hospital, the association may provide for installment payments of assessments.

(b)1. On or before October 15, 1988, all physicians licensed pursuant to chapter 458 or chapter 459 as of October 1, 1988, other than participating physicians, shall be assessed an initial assessment of \$250, which must be paid no later than December 1, 1988.

2. Any such physician who becomes licensed after September 30, 1988, and before January 1, 1989, shall pay into the association an initial assessment of \$250 upon licensure.

3. Any such physician who becomes licensed on or after January 1, 1989, shall pay an initial assessment equal to the most recent assessment made pursuant to this paragraph, paragraph (5)(a), or paragraph (7)(b).

4. However, if the physician is a physician specified in this subparagraph, the assessment is not applicable:

a. A resident physician, assistant resident physician, or intern in an approved postgraduate training program, as defined by the Board of Medicine or the Board of Osteopathic Medicine by rule;

b. A retired physician who has withdrawn from the practice of medicine but who maintains an active license as evidenced by an affidavit filed with the Department of Health. Prior to reentering the practice of medicine in this state, a retired physician as herein defined must notify the Board of Medicine or the Board of Osteopathic Medicine and pay the appropriate assessments pursuant to this section;

c. A physician who holds a limited license pursuant to s. 458.317 and who is not being compensated for medical services;

d. A physician who is employed full time by the United States Department of Veterans Affairs and whose practice is confined to United States Department of Veterans Affairs hospitals; or

e. A physician who is a member of the Armed Forces of the United States and who meets the requirements of s. 456.024.

f. A physician who is employed full time by the State of Florida and whose practice is confined to state-owned correctional institutions, a county health department, or state-owned mental health or developmental services facilities, or who is employed full time by the Department of Health.

(c) On or before December 1 of each year, beginning January 1, 2003 1988, each physician licensed pursuant to chapter 458 or chapter 459 who wishes to participate in the Florida Birth-Related Neurological Injury Compensation Plan and who otherwise qualifies as a participating physician under ss. 766.301-766.316 shall pay an initial assessment of \$5,000. *A physician shall be a participating physician for the entire calendar year if such assessment is paid on or before January 31.* However, if the physician is either a resident physician, assistant resident physician, or intern in an approved postgraduate training program, as defined by the Board of Medicine or the Board of Osteopathic Medicine by rule, and is supervised in accordance with program requirements established by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association by a physician who is participating in the plan, such resident physician, assistant resident physician, or intern is deemed to be a participating physician without the payment of the assessment. Participating physicians also include any employee of the board of trustees ~~Regents~~ who has paid the assessment required by this paragraph and paragraph (5)(a), and any certified nurse midwife supervised by such employee. Participating physicians include any certified nurse midwife who has paid 50 percent of the physician assessment required by this paragraph and paragraph (5)(a)

and who is supervised by a participating physician who has paid the assessment required by this paragraph and paragraph (5)(a). Supervision for nurse midwives shall require that the supervising physician will be easily available and have a prearranged plan of treatment for specified patient problems which the supervised certified nurse midwife may carry out in the absence of any complicating features. Any physician who elects to participate in such plan on or after January 1, 1989, who was not a participating physician at the time of such election to participate and who otherwise qualifies as a participating physician under ss. 766.301-766.316 shall pay an additional initial assessment equal to the most recent assessment made pursuant to this paragraph, paragraph (5)(a), or paragraph (7)(b).

(d) Any hospital located in any county with a gross population in excess of 1.1 million as of January 1, 2003, as determined by the Agency for Health Care Administration, pursuant to the Health Care Responsibility Act, may elect to pay the fee for the participating physician and the certified nurse midwife if the hospital first determines that the primary motivating purpose for making such payment is to ensure coverage for the hospital's patients under the provisions of ss. 766.301-766.316, provided no hospital may restrict any participating physician or nurse midwife, directly or indirectly, from being on the staff of hospitals other than the staff of the hospital making such payment. Each hospital shall file with the association an affidavit setting forth specifically the reasons why such hospital elected to 39ke such payment on behalf of each participating physician and certified nurse midwife. The payments authorized pursuant to this paragraph shall be in addition to the assessment set forth in paragraph (5)(a).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 30, after the semicolon (;) insert: amending s. 391.025, F.S.; including certain infants as eligible individuals for certain health services; amending s. 391.029, F.S.; providing for financial eligibility under the Children's Medical Services program for certain infants; providing certain reimbursement and funding requirements; amending s. 766.304, F.S.; limiting certain awards under certain circumstances; amending s. 766.305, F.S.; deleting certain information required in a petition; revising certain copying requirements; specifying information required to be provided by a claimant; specifying confidentiality of certain information; amending s. 766.309, F.S.; providing for bifurcating certain proceedings under certain circumstances; providing procedures; providing authority to an administrative law judge for certain actions; amending s. 766.31, F.S., relating to administrative law judge awards for birth-related neurological injuries; excluding expenses for items or services received under Medicaid; revising the amount of the death benefit; limiting claimants' liability, in specified circumstances, to expenses awarded under this section; amending s. 766.314, F.S.; redefining the term "infant delivered" to exclude those delivered by employees or agents of the board of trustees or in certain hospitals; revising qualifications for physician participation in the Florida Birth-related Neurological Injury Compensation Plan; providing for certain hospitals to pay the fee for participation in the plan on behalf of a participating physician or certified nurse midwife; providing restrictions on such a hospital; requiring the hospital to file certain information;

Senator Jones moved the following amendment:

Amendment 12 (303376)(with title amendment)—On page 86, line 31, insert:

Section 62. *James and Esther King Center for Universal Research to Eradicate Disease.*—

(1) *The Legislature finds that an estimated 128 million Americans suffer from acute, chronic, and degenerative diseases and that biomedical research is the key to finding cures for these diseases that negatively affect all Floridians. The Legislature further finds that, while there is much research being conducted throughout this state and throughout the world, there is a lack of coordination of efforts among researchers. The Legislature, therefore, finds that there is a significant need for a coordinated effort if the goal of curing disease is to be achieved. Moreover, the Legislature finds that the biomedical technology sector meets the criteria of a high-impact sector, pursuant to section 288.108, Florida Statutes, having a high importance to this state's economy with a significant potential for growth and contribution to our universities and quality of life.*

(2) *It is the intent of the Legislature that Florida strive to become the nation's leader in biomedical research and commit itself to being the state to find cures for the most deadly and widespread diseases. It is further the intent of the Legislature that there be a coordinated effort among the state's public and private universities and the biomedical industry to discover such cures. Moreover, it is the intent of the Legislature to expand the state economy by attracting biomedical researchers and research companies to this state.*

(3) *There is established the James and Esther King Center for Universal Research to Eradicate Disease, which shall be known as the "CURED."*

(a) *The purpose of the center is to coordinate, improve, expand, and monitor all biomedical research programs within the state, facilitate funding opportunities, and foster improved technology transfer of research findings into clinical trials and widespread public use.*

(b) *The goal of the center is to find cures for diseases such as cancer, heart disease, lung disease, diabetes, and neurological disorders, including Alzheimer's disease, epilepsy, and Parkinson's disease.*

(c) *The center shall hold an annual biomedical technology summit in Florida to which biomedical researchers, biomedical technology companies, business incubators, pharmaceutical manufacturers, and others around the nation and world are invited to share biomedical research findings in order to expedite the discovery of cures. Summit attendees will be required to cover the costs of such attendance or obtain sponsorship for such attendance.*

(d) *The center shall encourage clinical trials in this state on research that holds promise of curing a disease or condition. The center shall facilitate partnerships between researchers, treating physicians, and community hospitals for the purpose of sharing new techniques and new research findings, as well as coordinating voluntary donations to ensure an adequate supply of adult stem cells or cord blood.*

(e) *The center shall also encourage the discovery and production in Florida of vaccines that prevent disease.*

(f) *The center shall monitor the supply and demand needs of researchers relating to stem cell research and other types of human tissue research. If the center determines that there is a need for increased donation of human tissue, it shall notify hospitals licensed pursuant to chapter 395, Florida Statutes, that have entered into partnership agreements with research institutes conducting stem cell research located in the same geographic region as the researchers demanding the stem cells or other tissues. Such hospitals shall then implement programs that encourage voluntary donations of cord blood or other needed adult tissue.*

(g) *The center shall be funded through private, state, and federal sources.*

(h) *The center shall serve as a registry of all known biomedical grant opportunities and may assist any public or private biomedical research program in this state in preparing grant requests.*

(i) *The center shall maintain a website with links to peer-reviewed biomedical research. The website shall also contain a list of all known biomedical research being conducted in Florida and shall facilitate communication among researchers and other interested parties.*

(j) *The center shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 15 which contains recommendations for legislative change necessary to foster a positive climate for biomedical research in this state.*

(k) *The duties of the center may be outsourced by the Department of Health to a private entity or state university.*

(4) *There is established within the center an advisory council which shall meet at least annually.*

(a) *The council shall consist of the members of the board of directors of the Florida Research Consortium and at least one representative from:*

1. *The Emerging Technology Commission.*

2. *Enterprise Florida, Inc.*
3. *BioFlorida.*
4. *The Florida Biomedical Research Advisory Council.*
5. *The Florida Medical Foundation.*
6. *Pharmaceutical Research and Manufacturers of America.*

(b) *Members of the council shall serve without compensation and each organization represented shall cover all expenses of its representative.*

Section 63. Paragraphs (a) and (b) of subsection (1), subsection (2), and paragraph (f) of subsection (10) of section 215.5602, Florida Statutes, are amended to read:

215.5602 Florida Biomedical Research Program.—

(1) There is established within the Department of Health the Florida Biomedical Research Program funded by the proceeds of the Lawton Chiles Endowment Fund pursuant to s. 215.5601. The purpose of the Florida Biomedical Research Program is to provide an annual and perpetual source of funding in order to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. The long-term goals of the program are to:

(a) Improve the health of Floridians by researching better prevention, diagnoses, ~~and~~ treatments, *and cures* for cancer, cardiovascular disease, stroke, and pulmonary disease.

(b) Expand the foundation of biomedical knowledge relating to the prevention, diagnosis, ~~and~~ treatment, *and cure* of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

(2) Funds appropriated for the Florida Biomedical Research Program shall be used exclusively for the award of grants and fellowships as established in this section; for research relating to the prevention, diagnosis, ~~and~~ treatment, *and cure* of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease; and for expenses incurred in the administration of this section. *Priority shall be granted to research designed to prevent or cure disease.*

(10) The council shall submit an annual progress report on the state of biomedical research in this state to the Governor, the Secretary of Health, the President of the Senate, and the Speaker of the House of Representatives by February 1. The report must include:

(f) Progress in the prevention, diagnosis, ~~and~~ treatment, *and cure* of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

Section 64. Florida Cancer Research Cooperative.—

(1) *Effective July 1, 2003, the Florida Cancer Research Cooperative is established for the purpose of making the State of Florida a world class center for cancer research.*

(2)(a) *A not-for-profit corporation, acting as an instrumentality of the Florida Dialogue on Cancer, shall be organized for the purpose of governing the affairs of the cooperative.*

(b) *The Florida Cancer Research Cooperative, Inc., may create not-for-profit corporate subsidiaries to fulfill its mission. The not-for-profit corporation and its subsidiaries are authorized to receive, hold, invest, and administer property and any moneys acquired from private, local, state, and federal sources, as well as technical and professional income generated or derived from the mission-related activities of the cooperative.*

(c) *The affairs of the not-for-profit corporation shall be managed by a board of directors which shall consist of:*

1. *The Secretary of the Department of Health or his or her designee;*
2. *The Chief Executive Officer of the H. Lee Moffitt Cancer Center or his or her designee;*

3. *The President of the University of Florida Shands Cancer Center or his or her designee;*

4. *The Chief Executive Officer of the University of Miami Sylvester Comprehensive Cancer Center or his or her designee;*

5. *The Chief Executive Officer of the Mayo Clinic, Jacksonville or his or her designee;*

6. *The Chief Executive Officer of the American Cancer Society, Florida Division or his or her designee;*

7. *The President of the American Cancer Society, Florida Division Board of Directors or his or her designee;*

8. *The President of the Florida Society of Clinical Oncology or his or her designee;*

9. *The Chief Executive Officer of Enterprise Florida, Inc., or his or her designee;*

10. *Three representatives from large Florida hospitals or institutions, not delineated in subparagraphs 1. through 6., that treat a large volume of cancer patients. One shall be appointed by the Governor, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the President of the Senate;*

11. *Three representatives from community-based, statewide organizations serving populations that experience cancer disparities, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the President of the Senate;*

12. *One member of the Florida House of Representatives, to be appointed by the Speaker of the House of Representatives;*

13. *One member of the Florida Senate, to be appointed by the President of the Senate;*

14. *Three university presidents, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the President of the Senate; and*

15. *Five representatives from other statewide public health organizations whose missions include public education and the eradication of cancer, three of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the President of the Senate.*

(d) *Appointments made by the Speaker of the House of Representatives and the President of the Senate pursuant to paragraph (c) shall be for 2-year terms, concurrent with the bienniums in which they serve as presiding officers.*

(e) *Appointments made by the Governor pursuant to paragraph (c) shall be for 2-year terms, although the Governor may reappoint directors.*

(f) *Members of the board of directors of the not-for-profit corporation or any subsidiaries shall serve without compensation.*

(3) *The cooperative shall issue an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, by December 15 of each year, with policy and funding recommendations regarding cancer research capacity in Florida and related issues.*

Section 65. Florida Cancer Research Cooperative; mission and duties.—

(1) *The cooperative shall develop and centralize the processes and shared services for expanding cancer research in Florida through:*

(a) *Support through bioinformatics, in order to create a cancer informatics infrastructure that enhances information and resource exchange and integration through researchers working in diverse disciplines to facilitate the full spectrum of cancer investigations;*

(b) *Technical coordination, business development, and support of intellectual property;*

(c) *Development of a statewide cancer clinical trials network as contemplated in section 1; and*

(d) *Other multidisciplinary research support activities.*

(2) *The cooperative shall work in concert with the Center for Universal Research to Eradicate Disease created in section 1 to ensure that the goals of the center are advanced.*

Section 66. Section 484.0512, Florida Statutes, is amended to read:

484.0512 *Thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee; criminal penalty procedures.—*

(1) A person selling a hearing aid in this state must provide the buyer with written notice of a 30-day trial period and money-back guarantee. The guarantee must permit the purchaser to cancel the purchase for a valid reason as defined by rule of the board within 30 days after receiving the hearing aid, by returning the hearing aid or mailing written notice of cancellation to the seller. If the hearing aid must be repaired, remade, or adjusted during the 30-day trial period, the running of the 30-day trial period is suspended 1 day for each 24-hour period that the hearing aid is not in the purchaser's possession. A repaired, remade, or adjusted hearing aid must be claimed by the purchaser within 3 working days after notification of availability. The running of the 30-day trial period resumes on the day the purchaser reclaims the repaired, remade, or adjusted hearing aid or on the fourth day after notification of availability.

(2) The board, in consultation with the Board of Speech-Language Pathology and Audiology, shall prescribe by rule the terms and conditions to be contained in the money-back guarantee and any exceptions thereto. Such rule shall provide, at a minimum, that the charges for earmolds and service provided to fit the hearing aid may be retained by the licensee. The rules shall also set forth any reasonable charges to be held by the licensee as a cancellation fee. Such rule shall be effective on or before December 1, 1994. Should the board fail to adopt such rule, a licensee may not charge a cancellation fee which exceeds 5 percent of the total charge for a hearing aid alone. The terms and conditions of the guarantee, including the total amount available for refund, shall be provided in writing to the purchaser prior to the signing of the contract.

(3) Within 30 days after the return or attempted return of the hearing aid, the seller shall refund all moneys that must be refunded to a purchaser pursuant to this section. A violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) For purposes of this section, the term "seller" or "person selling a hearing aid" includes:

(a) Any natural person licensed under this part or any other natural person who signs a sales receipt required by s. 484.051(2) or s. 468.1245(2) or who otherwise fits, delivers, or dispenses a hearing aid.

(b) Any business organization, whether a sole proprietorship, partnership, corporation, professional association, joint venture, business trust, or other legal entity, which dispenses a hearing aid or enters into an agreement to dispense a hearing aid.

(c) Any person who controls, manages, or operates an establishment or business that dispenses a hearing aid or enters into an agreement to dispense a hearing aid.

Section 67. Effective upon this act becoming a law, subsection (1) of section 456.073, Florida Statutes, is amended to read:

456.073 *Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.*

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint filed by a state prisoner against a health care practitioner employed by or otherwise providing health care services within a facility of the Department of Corrections is not legally sufficient unless there is a showing that the prisoner complainant has exhausted all available administrative remedies within the state correctional system before filing the complaint. However, if the department determines after a preliminary

inquiry of a state prisoner's complaint, that the practitioner may present a serious threat to the health and safety of any individual who is not a state prisoner, the department may determine legal sufficiency and proceed with discipline. The Department of Health shall be notified within 15 days whenever the Department of Corrections disciplines or allows a health care practitioner to resign for an offense related to the practice of his or her profession. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification to any subject if the act under investigation is a criminal offense.

Section 68. (1) *The Division of Medical Quality Assurance of the Department of Health shall conduct a study of clinical and academic training requirements of certified optometric practitioners, licensed pursuant to chapter 463, Florida Statutes, to determine the extent to which prescribing authority may be expanded. The study group shall be composed of the following members:*

- (a) One pharmacologist representing the University of Florida;
- (b) One pharmacologist representing Nova Southeastern University;
- (c) One pharmacologist representing Florida Agricultural and Mechanical University;
- (d) One ophthalmologist representing Mayo Clinic Jacksonville;
- (e) One ophthalmologist representing Bascom Palmer Eye Institute;
- (f) One board-certified internist appointed by the University of South Florida;
- (g) One optometrist representing the Florida Board of Optometry;
- (h) One certified optometric practitioner representing the Florida Optometric Association; and
- (i) One certified optometric practitioner appointed by the Nova Southeastern University College of Optometry.

(2) *The study group shall be chaired by the Secretary of Health or his or her designee. The study shall be completed and a final report presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2004. If applicable, a minority report shall be completed and presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2004.*

(3) *This section shall take effect upon becoming a law.*

Section 69. Present subsection (4) of section 465.0265, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

465.0265 Centralized prescription filling.—

(4) *Pharmacies accessing the same prescription records in a centralized database or pharmacy computers linked in any other manner may refill or dispense prescriptions at the request of another pharmacy so linked if the pharmacies have the same owner or have a written contract specifying the services to be provided by each pharmacy, the responsibilities of each pharmacy, and the manner in which the pharmacies will comply with federal and state laws and rules. Prescriptions refilled or dispensed using such a system shall not be considered prescription transfers or copies if the computer system registers a complete and full audit trail of all activities and includes the identification of the pharmacies and pharmacists accessing the centralized database and if the system restricts access to the computerized prescription records to pharmacies or other authorized personnel.*

Section 70. Subsection (2) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(2) An applicant shall be entitled to take the examinations required in this section to practice dentistry in this state if the applicant:

(a) Is 18 years of age or older.

(b)1. Is a graduate of a dental school accredited by the Commission on Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; or:

2. *Is a dental student in the final year of a program at such an accredited school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations. With respect to a dental student in the final year of a program at a dental school, a passing score on the examinations is valid for 180 days after the date the examinations were completed. A dental school student who takes the licensure examinations during the student's final year of an approved dental school must have graduated before being certified for licensure pursuant to s. 466.011.*

(c) Has successfully completed the National Board of Dental Examiners dental examination within 10 years of the date of application.

Section 71. Section 466.0065, Florida Statutes, is created to read:

466.0065 Regional licensure examinations.—

(1) *It is the intent of the Legislature that schools of dentistry be allowed to offer regional licensure examinations to dental students who are in the final year of a program at an approved dental school for the sole purpose of facilitating the student's licensing in other jurisdictions. This section does not allow a person to be licensed as a dentist in this state without taking the examinations as set forth in s. 466.006, nor does this section mean that regional examinations administered under this section may be substituted for complying with testing requirements under s. 466.006.*

(2) *Each school of dentistry in this state which is accredited by the Commission on Accreditation of the American Dental Association or its successor agency may, upon written approval by the Board of Dentistry, offer regional licensure examinations only to dental students in the final year of a program at an approved dental school, if the board has approved the hosting school's written plan to comply with the following conditions:*

(a) *The examining body must be a member of the American Association of Dental Examiners.*

(b) *The student must have successfully completed parts I and II of the National Board of Dental Examiners examination within 2 years before taking the regional examination.*

(c) *The student must possess medical malpractice insurance in amounts that the board determines to be sufficient to cover any reason-*

ably foreseeable incident of harm to a patient during the clinical portion of the regional examination.

(d) *At least one of the examination monitors must be a dentist licensed in this state who has completed all necessary standardization exercises required by the regional examination body.*

(e) *Adequate arrangements must be made, when necessary, for patients who require followup care as a result of procedures performed during the clinical portion of the regional examination.*

(f) *The board chair or the chair's designee must be allowed to observe testing while it is in progress.*

(g) *Each student, upon applying to take the regional examination, must receive written disclosure in at least 12-point boldface type which states: "This examination does not meet the licensure requirements of chapter 466, Florida Statutes, for licensure in the State of Florida. Persons wishing to practice dentistry in Florida must pass the Florida licensure examinations. For more information on Florida's licensure examination procedures, please contact the Florida Board of Dentistry."*

(h) *The student must be enrolled as a dental student in the student's final year of a program at an approved dental school that is accredited by the Commission on Accreditation of the American Dental Association or its successor agency.*

(i) *The student must have completed all the coursework necessary to prepare the student to perform all clinical and diagnostic procedures required to pass the regional examination.*

(j) *The student's academic record must not include any evidence suggesting that the student poses an unreasonable risk to any live patients who are required for the clinical portion of the regional examination. In order to protect the health and safety of the public, the board may request additional information and documents pertaining to the candidate's mental and physical health in order to fully assess the candidate's fitness to engage in exercises involving a live patient.*

(3) *A student who takes the examination pursuant to this section, a dental school that submits a plan pursuant to this section, or a regional examination body that a dental school proposes to host under this section does not have standing to assert that a state agency has taken action for which a hearing may be sought under ss. 120.569 and 120.57.*

Section 72. *This act may be cited as the "Nick Oelrich Gift of Life Act."*

Section 73. Subsections (1), (2), and (6) of section 765.512, Florida Statutes, are amended to read:

765.512 Persons who may make an anatomical gift.—

(1) Any person who may make a will may give all or part of his or her body for any purpose specified in s. 765.510, the gift to take effect upon death. An anatomical gift made by an adult donor and not revoked by the donor as provided in s. 765.516 is irrevocable ~~and does not require the consent or concurrence of any person~~ after the donor's death. A family member, guardian, representative ad litem, or health care surrogate of an adult donor who has made an anatomical gift pursuant to subsection (2) may not modify, deny or prevent a donor's wish or intent to make an anatomical gift from being made after the donor's death.

(2) If the decedent has executed an agreement concerning an anatomical gift, by ~~including~~ signing an organ and tissue donor card, by expressing his or her wish to donate in a living will or advance directive, or by signifying his or her intent to donate on his or her driver's license or in some other written form has indicated his or her wish to make an anatomical gift, and in the absence of actual notice of contrary indications by the decedent, the document is evidence of legally sufficient informed consent to donate an anatomical gift and is legally binding. Any surrogate designated by the decedent pursuant to part II of this chapter may give all or any part of the decedent's body for any purpose specified in s. 765.510.

(6) A gift of all or part of a body authorizes:

(a) Any examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) *The decedent's medical provider, family, or a third party to furnish medical records requested concerning the decedent's medical and social history.*

Section 74. Section 765.516, Florida Statutes, is amended to read:

765.516 *Amendment of the terms of or the revocation of the gift.—*

(1) A donor may amend *the terms of* or revoke an anatomical gift by:

(a) The execution and delivery to the donee of a signed statement.

(b) An oral statement that is:

1. ~~Made to the donor's spouse; or~~

2. *made in the presence of two persons, one of whom must not be a family member, and communicated to the donor's family or attorney or to the donee.*

(c) A statement during a terminal illness or injury addressed to an attending physician, who must communicate the revocation of the gift to the procurement organization that is certified by the state.

(d) A signed document found on *or about* the donor's person ~~or in the donor's effects.~~

(2) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided in subsection (1).

Section 75. Section 458.3245, Florida Statutes, is created to read:

458.3245 *Dermatological procedures; supervision requirements.—*

A physician promoting dermatological medical services must directly supervise the evaluation of new nonemergency dermatological problems and any nonemergency surgical procedures provided in a facility not licensed under chapter 395.

Section 76. Section 459.126, Florida Statutes, is created to read:

459.126 *Dermatological procedures; supervision requirements.—*

An osteopathic physician promoting dermatological medical services must directly supervise the evaluation of new nonemergency dermatological problems and any nonemergency surgical procedures provided in a facility not licensed under chapter 395.

Section 77. Subsection (1) of section 765.401, Florida Statutes, is amended to read:

765.401 *The proxy.—*

(1) If an incapacitated or developmentally disabled patient has not executed an advance directive, or designated a surrogate to execute an advance directive, or the designated or alternate surrogate is no longer available to make health care decisions, health care decisions may be made for the patient by any of the following individuals, in the following order of priority, if no individual in a prior class is reasonably available, willing, or competent to act:

(a) The judicially appointed guardian of the patient or the guardian advocate of the person having a developmental disability as defined in s. 393.063, who has been authorized to consent to medical treatment, if such guardian has previously been appointed; however, this paragraph shall not be construed to require such appointment before a treatment decision can be made under this subsection;

(b) The patient's spouse;

(c) An adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;

(d) A parent of the patient;

(e) The adult sibling of the patient or, if the patient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation;

(f) An adult relative of the patient who has exhibited special care and concern for the patient and who has maintained regular contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs; ~~or~~

(g) A close friend of the patient; *or*;

(h) *A clinical social worker licensed pursuant to chapter 491, or a graduate of a court-approved guardianship program. Such a proxy must be selected by the provider's bioethics committee and must not be employed by the provider. If the provider does not have a bioethics committee, then such a proxy may be chosen through an arrangement with the bioethics committee of another provider. The proxy must be notified that upon request the provider shall make available a second physician, not involved in the patient's care, to assist the proxy in evaluating treatment. Decisions to withhold or withdraw life-prolonging procedures must be reviewed by the facility's bioethics committee. Documentation of efforts to locate proxies from prior classes must be recorded in the patient record.*

Section 78. Subsection (22) is added to section 641.19, Florida Statutes, to read:

641.19 *Definitions.—As used in this part, the term:*

(22) *"Specialty" does not include services performed by a chiropractic physician licensed under chapter 460.*

And the title is amended as follows:

On page 8, line 30, after the semicolon (;) insert: creating the James and Esther King Center for Universal Research to Eradicate Disease; providing intent and duties; creating an advisory council; amending s. 215.5602, F.S.; expanding the long-term goals and funding of the Florida Biomedical Research Program to include the cure of specified diseases; creating the Florida Cancer Research Cooperative; providing for a board of directors; providing the cooperative's mission and duties; amending s. 484.0512, F.S.; providing a criminal penalty for failure of a seller to refund within a specified time moneys required to be refunded to a purchaser for the return or attempted return of a hearing aid; providing a definition; amending s. 456.073, F.S.; providing that a state prisoner must exhaust all available administrative remedies before filing a complaint with the Department of Health against a health care practitioner who is providing health care services within the Department of Corrections, unless the practitioner poses a serious threat to the health or safety of a person who is not a state prisoner; requiring the Department of Health to be notified if a health care practitioner is disciplined or allowed to resign for a practice-related offense; requiring the Division of Medical Quality Assurance of the Department of Health to conduct a study of clinical and academic training requirements of certified optometric practitioners; providing for appointment of members; requiring a report to be submitted to the Governor and Legislature; amending s. 465.0265, F.S.; providing requirements for the filing of prescriptions by pharmacies that are under common ownership or that have a contractual relationship with one another; specifying requirements for exceptions to prescription transfers between certain pharmacies; amending s. 466.006, F.S.; allowing certain dental students to take the examinations required to practice dentistry in this state under specified conditions; providing a prerequisite to licensure of such students; creating s. 466.0065, F.S.; allowing certain dental students to take regional licensure examinations under specified conditions; restricting the applicability of examination results to licensing in other jurisdictions; requiring approval by the Board of Dentistry and providing prerequisites to such approval; creating the "Nick Oelrich Gift of Life Act"; amending s. 765.512, F.S., relating to anatomical gifts; prohibiting modification of a donor's intent; providing that a donor document is legally binding; authorizing specified persons to furnish a donor's medical records upon request; amending s. 765.516, F.S.; revising procedures by which the terms of an anatomical gift may be amended or the gift may be revoked; creating s. 458.3245, F.S.; requiring a physicians promoting dermatological medical services to directly supervise evaluations of new nonemergency dermatological problems and nonemergency surgical procedures in facilities not licensed under chapter 395; creating s. 459.126, F.S.; requiring osteopathic physicians promoting dermatological medical services to directly supervise evaluations of new nonemergency dermatological problems and nonemergency surgical procedures in facilities not licensed under chapter 395; amending s. 765.401, F.S.; providing additional persons who may be given a proxy for the making of health care decisions; requiring review by the facility's bioethics committee of decisions to withhold or withdraw life-prolonging procedures; requiring doc-

umentation of efforts to locate certain proxies; amending s. 641.19, F.S.; providing that the term "speciality" does not include the services of a licensed chiropractic physician for purposes of the regulation of managed care;

SENATOR DOCKERY PRESIDING

Senator Fasano moved the following amendment to **Amendment 12** which was adopted:

Amendment 12A (083518)(with title amendment)—On page 19, line 30 through page 20, line 16, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 24, line 13 through page 25, line 24, delete those lines and insert: be revoked;

Amendment 12 as amended was adopted.

Senator Fasano moved the following amendment which was adopted:

Amendment 13 (481818)(with title amendment)—On page 86, line 31, insert:

Section 62. Subsection (5) is added to section 401.272, Florida Statutes, to read:

401.272 Emergency medical services community health care.—

(5) *Notwithstanding any other provision of law to the contrary, a pilot program is authorized in Orange County where paramedics may provide basic life support and advanced life support as defined in s. 401.23(1) and (7):*

(a) *In a hospital emergency department. Such services provided by paramedics employed by the hospital must be under the direction of the emergency department nursing director or manager. If the services provided by paramedics employed by the physician group is pursuant to a contract between a hospital and a physician group to provide emergency services, such paramedics shall be employees of the physician group and services provided by the paramedics must be under the supervision of a physician.*

(b) *As part of a private corporate emergency management and response program. Such services must be provided under the supervision of a physician.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 30, after the semicolon (;) insert: amending s. 401.272, Florida Statutes; providing for certain paramedics to provide basic and advanced life support; providing supervision requirements;

Senators Villalobos and Garcia offered the following amendment which was moved by Senator Peadar:

Amendment 14 (764456)(with title amendment)—On page 86, line 31, insert:

Section 62. *The Department of Health, in consultation with the Miami-Dade Community College Physician Assistant Program, the University of Florida Physician Assistant Program, the Nova Southeastern University Physician Assistant Program, and the Barry University Physician Assistant Program, shall conduct a study to establish the most advantageous methods to utilize the medical skills of foreign-trained physicians to practice as physician assistants in this state. Such joint study shall indicate:*

(1) *The existing pathways or methods for a foreign-trained physician to receive a license to practice as a physician assistant in Florida;*

(2) *National standards, national examinations, and credentialing requirements for a foreign-trained physician to be licensed to practice as a physician assistant in other states in the United States;*

(3) *Training, education requirements, remedial courses, and supervisory needs of a foreign-trained physician desiring to become eligible to practice as a physician assistant;*

(4) *The scope of practice of a foreign-trained physician assistant; and*

(5) *Any other areas of study that the department and educational institutions deem appropriate to further the intent of this section.*

Such study shall be presented to the Governor, the President of the Senate and the Speaker of the House of Representatives no later than January 1, 2004.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 30, after the semicolon (;) insert: requiring the Department of Health, in consultation with specified educational institutions, to conduct a study with respect to using skills of foreign-trained physicians and to report the results;

MOTION

On motion by Senator Clary, the rules were waived to allow the following amendment to be considered:

Senator Clary moved the following amendment to **Amendment 14** which was adopted:

Amendment 14A (453090)—On page 1, line 21, after the first word "Program" insert: *Florida Academy of Physician Assistants,*

Amendment 14 as amended was adopted.

Senator Jones moved the following amendment:

Amendment 15 (841770)(with title amendment)—On page 86, line 31, insert:

Section 62. Section 514.0305, Florida Statutes, is created to read:

514.0305 *Public pools; safety barriers.*—

(1) *Public pools must be equipped with the following safety features:*

(a) *A permanent barrier that completely encloses the pool. A barrier means a fence, wall, wall of a building, or any combination thereof, which completely surrounds the pool and obstructs access to the pool, especially access from the building or from the property outside the barrier.*

(b) *Pedestrian gates that open outward, are self-closing, and equipped with a release mechanism that is located on the pool side of the gate and placed so that a child 6 years of age or younger cannot reach it.*

(c) *Gates, other than pedestrian gates, which must be equipped with lockable hardware or padlocks and which must remain locked when not being used.*

(2)(a) *The barriers and other equipment required by this section shall be inspected by the county health department during each routine inspection.*

(b) *The inspector shall immediately close any pool that does not comply with the requirements of this section. Upon such closing, the owner or operator of the pool must correct the deficiencies or be subject to an administrative fine not to exceed \$1,500.*

(3) *This section applies to all public pools that are operated or constructed on or after July 1, 2003, except that pools in operation on that date must be brought into compliance by October 1, 2003.*

Section 63. Subsection (5) of section 514.031, Florida Statutes, is amended to read:

514.031 *Permit necessary to operate public swimming pool or bathing place.*—

(5) *An owner or operator of a public swimming pool, including, but not limited to, a spa, wading, or special purpose pool, to which admittance is obtained by membership for a fee shall post in a prominent location within the facility the most recent pool inspection report issued by the department pertaining to the health and safety conditions of such facility. The report shall be legible and readily accessible to members or potential members. The department shall adopt rules to enforce this*

subsection. A portable pool may not be used as a public pool; *however, a portable pool may be used for scuba diving instruction or scuba diving exhibition purposes and may be permitted by the department, if such portable pool otherwise meets the health, safety, and welfare requirements of the rules of the department applicable to public pools.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 30, after the semicolon (;) insert: creating s. 514.0305, F.S.; requiring such pools to be enclosed by a barrier; establishing additional safety requirements; requiring inspections; providing an administrative penalty for violations; providing for application; amending s. 514.031, F.S.; authorizing licensure of a portable pool used for certain purposes related to scuba diving;

Senator Jones moved the following amendment to **Amendment 15** which was adopted:

Amendment 15A (301116)(with title amendment)—On page 2, line 28 through page 3, line 2, insert: *may not be used as a public pool; provided however, a portable pool may be used for scuba diving instruction or scuba diving exhibition purposes and may be permitted by the department, if such portable pool otherwise meets the health, safety, and welfare requirements of the rules of the department applicable to public pools. Notice of such use for scuba diving instruction or scuba diving exhibition shall be provided to the department no less than 60 days prior to use of the pool. Any owner or operator of a pool used for scuba diving instruction or exhibition found to be in violation is subject to an administrative fine of \$1,000 per violation.*

Section 64. Subsection (2) of section 514.033, Florida Statutes, is amended to read:

514.033 Creation of fee schedules authorized.—

(2) The fee schedule shall be: for original construction or development plan approval, not less than \$275 and not more than \$500; for modification of original construction, not less than \$100 and not more than \$150; for an initial operating permit, not less than \$125 and not more than \$250; *for inspection of portable pools used as public pools for scuba diving instruction or exhibition, not less than \$200 or more than \$500*; and for review of variance applications, not less than \$240 and not more than \$400. The department shall assess the minimum fees provided in this subsection until a fee schedule is promulgated by rule of the department.

And the title is amended as follows:

On page 3, line 19, after the semicolon (;) insert: providing for notice; providing an administrative penalty for violations; amending s. 514.033, F.S.; providing for inspection fees;

Amendment 15 as amended was adopted.

THE PRESIDENT PRESIDING

Senator Fasano moved the following amendment:

Amendment 16 (853702)(with title amendment)—On page 86, line 31, insert:

Section 62. Section 1012.46, Florida Statutes, is amended to read:

1012.46 Athletic trainers.—

(1) School districts may establish and implement an athletic injuries prevention and treatment program. Central to this program should be the employment and availability of persons trained in the prevention and treatment of physical injuries which may occur during athletic activities. The program should reflect opportunities for progressive advancement and compensation in employment as provided in subsection (2) and meet certain other minimum standards developed by the Department of Education. ~~The goal of the Legislature is to have school districts employ and have available a full-time teacher athletic trainer in each high school in the state.~~

(2) To the extent practicable, a school district program should include the following employment classification and advancement scheme:

(a) First responder.—To qualify as a first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 1012.56, be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in courses such as care and prevention of athletic injuries, anatomy, physiology, nutrition, counseling, and other similar courses approved by the Commissioner of Education. This person may only administer first aid and similar care *and may not hold himself or herself out to a school district or the public as an athletic trainer licensed under part XIII of chapter 468.*

(b) ~~Teacher~~ Athletic trainer.—To qualify as *an a-teacher* athletic trainer, a person must *be licensed under part XIII of chapter 468 and may be utilized by a school district as* possess a professional, temporary, part-time, adjunct, or substitute *teacher certificate* pursuant to s. 1012.35, s. 1012.56 or s. 1012.57; ~~and be licensed as required by part XIII of chapter 468.~~

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 30, after the semicolon (;) insert: amending s. 1012.46, F.S.; revising criteria of athletic trainers working in school districts;

On motion by Senator Peaden, further consideration of **CS for SB 2750** with pending **Amendment 16 (853702)** was deferred.

MOTIONS

On motion by Senator Lee, the rules were waived and time of recess was extended until completion of motions and announcements.

On motion by Senator Lee, a deadline of 9:02 p.m. this day, was set for filing amendments to Bills on the Special Order Calendar to be considered Thursday, May 1.

On motion by Senator Lee, a deadline of 9:00 a.m. Thursday, May 1, was set for filing amendments to Bills on Third Reading to be considered that day.

On motion by Senator Lee, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Thursday, May 1.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

EXECUTIVE BUSINESS

The following Executive Order was filed with the Secretary:

EXECUTIVE ORDER NUMBER 03-76

WHEREAS, Dwayne Walker is presently serving as Sheriff of Lafayette County, Florida, and

WHEREAS, on August 21, 2002, in Executive Order No. 02-236, the Governor suspended Dwayne Walker from the office of Sheriff of Lafayette County after an investigation conducted by the Florida Department of Law Enforcement ("FDLE") revealed multiple incidents of drunken public behavior by Walker, and

WHEREAS, as a basis for Dwyane Walker's suspension, the Governor concluded that Walker's inebriated condition impaired his ability to discharge his official duties, caused a failure to do and perform duties laid on him by virtue of his office, caused him to perform acts in his official capacity that are wholly illegal and wrongful, and caused him to perform legal acts in his official capacity in an improper or illegal manner, and

WHEREAS, Dwayne Walker has acknowledged to law enforcement officers of the FDLE that he gave false information to FDLE on June 28, 2002, during the course of FDLE's governor-ordered investigation, and

WHEREAS, subsequent to his suspension, in a deferred prosecution agreement with the Office of the State Attorney, Third Judicial Circuit, Dwayne Walker acknowledged that he gave false information to law enforcement officers of the FDLE on July 24, 2002, and

WHEREAS, on March 21, 2003, in Executive Order No. 03-55, the Governor reinstated Dwayne Walker to the Office of Sheriff of Lafayette County, and

WHEREAS, the Governor's reinstatement of Dwayne Walker was predicated on the fact that Walker had undergone treatment and counseling and that a medical professional had examined Walker and found him fit for duty, and

WHEREAS, as a condition of his reinstatement, Walker: accepted responsibility for the behavior that led to his suspension; agreed not to retaliate against any of the witnesses involved in the investigation of his misconduct; agreed to continue his outpatient alcohol treatment and to report to the Governor on the progress of that treatment; and agreed to submit to random alcohol screenings by the healthcare professionals monitoring his sobriety, and

WHEREAS, subsequent to his reinstatement, on April 27, 2003, Dwayne Walker was arrested by the Tampa Police Department for driving under the influence, and

WHEREAS, it is in the best interest of the residents of Lafayette County, and the citizens of the State of Florida that Dwayne Walker be immediately suspended from the public office which he now holds, upon the grounds hereinafter set forth;

NOW, THEREFORE, I, JEB BUSH, Governor of Florida, pursuant to the Constitution and the laws of the State of Florida, do hereby find, determine, and for the purposes of Article IV, Section 7, of the Florida Constitution, allege as follows:

A. Dwayne Walker is, and at all times material hereto was, Sheriff of Lafayette County, Florida.

B. The office of Sheriff of Lafayette County, Florida, is within the purview of the suspension powers of the Governor, pursuant to Article IV, Section 7, of the Florida Constitution.

C. This suspension is predicated upon (1) the attached Investigative Summary, which is hereby incorporated as if fully set forth in this Executive Order, (2) the fact that Dwayne Walker gave false statements to FDLE during the course of its governor-ordered investigation, and (3) Walker's arrest on April 27, 2003 for driving under the influence.

D. The attached Investigative Summary, the fact that Dwayne Walker gave false statements to FDLE during the course of a governor-ordered investigation, and Walker's arrest for driving under the influence demonstrate that Walker has committed acts that constitute drunkenness, neglect of duty, malfeasance and misfeasance.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is hereby promulgated, effective immediately:

Section 1. Dwayne Walker is hereby suspended from the public office which he now holds, to wit: Sheriff of Lafayette County, Florida.

Section 2. Dwayne Walker is hereby prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until a further executive order is issued, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 28th day of April, 2003.

Jeb Bush
GOVERNOR

ATTEST:
Glenda E. Hood
SECRETARY OF STATE

[Referred to the Committee on Ethics and Elections.]

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed HB 1839; has passed as amended HB 823, HB 829, HB 1307 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Finance and Tax; and Representative Johnson—

HB 1839—A bill to be entitled An act relating to the corporate income tax; amending s. 220.03, F.S.; providing for the adoption of the 2003 version of the Internal Revenue Code; providing for retroactive operation; providing an effective date.

—was referred to the Committees on Finance and Taxation; Appropriations.

By Representative Peterman—

HB 823—A bill to be entitled An act relating to the Pinellas County School Board; revising procedures for the election of school board members; providing guidelines for implementation; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Galvano and others—

HB 829—A bill to be entitled An act relating to the Manatee County Port Authority; codifying, reenacting, amending, and repealing special acts related to the Port Authority; providing a charter; providing for formation as a dependent special district; providing for the operation of the port authority; providing for powers, functions, and duties; providing for construction and effect; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Mayfield and others—

HB 1307—A bill to be entitled An act relating to emergency communications; amending s. 365.172, F.S.; defining the terms "active prepaid wireless telephone," "mobile telephone number," "prepaid wireless telephone service," and "sufficient positive balance" for purposes of wireless emergency communications; revising authority of the board; prescribing additional duties of the board of directors of the Wireless 911 Board with respect to 911 and E911 systems; revising procedures for securing accounting services; prescribing a method of collecting the wireless E911 fee in instances in which the wireless telephone service to which the surcharge applies is prepaid; exempting certain colocated facilities from specified land development regulations under described circumstances; providing for certification to local governments of compliance with certain federal regulations; providing for local government approval of applications for permits for new or colocated wireless communications facilities; providing procedures and timeframes; providing for waiver of timeframes; specifying permitted use and activity for certain additional facilities; providing for the Department of Management Services and the Department of Transportation to negotiate leases of state-owned property for certain wireless telecommunications facilities; authorizing said departments to adopt rules; providing for report to the board and the county of certain delays in locating facilities; providing for a subcommittee to make recommendations to the board and certain identified local governments regarding compliance with federal Phase II E911 service

requirements; providing for report of such recommendations to the Governor and the Legislature; amending s. 365.173, F.S.; authorizing disbursements from the Wireless Emergency Telephone System Fund for activities of the board of directors of the Wireless 911 Board; creating s. 365.175, F.S.; providing definitions; requiring new private branch exchange telephone systems to have automatic location identification capabilities; providing an effective date.

—was referred to the Committee on Communication and Public Utilities; Committee on Comprehensive Planning; Finance and Taxation; Appropriations Subcommittee on General Government; Appropriations.

RETURNING MESSAGES—FINAL ACTION

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed SB 1430 and SB 2700.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 29 was corrected and approved.

CO-SPONSORS

Senators Aronberg—SB 1832; Bullard—SB 624, SB 1756, SB 1758, SB 1944, SB 2654; Haridopolos—SB 1698

VOTES RECORDED

Senator Lynn was recorded as voting “yea” on the motion to consider late-filed **Amendment 2D (520542)** to **CS for SB 2708** which was considered on April 25. Senators Campbell and Wasserman Schultz were recorded as changing their votes from “yea” to “nay” on the following bill which was considered April 28: **CS for SB 626**. Senator Lynn was recorded as voting “yea” on the following bill which was considered on April 29: **CS for SB 606**.

RECESS

On motion by Senator Lee, the Senate recessed at 7:02 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Thursday, May 1 or upon call of the President.

BILL ACTION SUMMARY

WEDNESDAY, APRIL 30, 2003

S 118 Read second time
S 172 Read second time; Read third time; CS passed 40-0
S 194 Read second time
S 222 Read second time
S 332 Read second time; Substituted HB 1813; Laid on Table, refer to HB 1813
S 478 Read third time; CS passed 40-0
S 554 Read third time; CS passed as amended 39-0
S 594 Read second time
S 642 Read second time; Read third time; CS passed 40-0
S 654 Read third time; CS passed as amended 27-12
S 728 Read third time; CS passed 40-0
S 730 Read third time; Passed 39-0
S 742 Read second time; Substituted HB 1757; Laid on Table, refer to HB 1757
S 924 Read third time; CS passed 38-0
S 1002 Companion bill passed; refer to HB 1839
S 1006 Read second time; Read third time; CS passed 40-0
S 1072 Read third time; CS passed as amended 40-0
S 1168 Read third time; CS passed as amended 40-0
S 1172 Read third time; CS failed to pass 17-21
S 1202 Read second time; Amendment pending
S 1210 Read second time

S 1248 Read third time; CS passed 38-0
S 1298 Read second time; Read third time; CS passed 39-0
S 1300 Read third time; CS passed as amended 40-0
S 1312 Read third time; CS passed as amended 39-0
S 1336 Read second time
S 1434 Read third time; CS passed 40-0
S 1450 Read second time; Substituted HB 1307; Laid on Table, refer to HB 1307
S 1530 Read second time; Read third time; CS passed 40-0
S 1556 Read third time; CS passed 40-0
S 1580 Read third time; CS passed as amended 40-0
S 1612 Read second time; Read third time; CS passed 39-0
S 1626 Read second time
S 1638 Read third time; Passed as amended 40-0
S 1660 Read third time; CS passed as amended 39-0
S 1694 Read second time; Read third time; CS passed 39-0
S 1720 Companion bill passed; refer to HB 773
S 1724 Read third time; CS passed as amended 39-1
S 1740 Read second time
S 1742 Read second time; Read third time; CS passed 39-0
S 1754 Read third time; CS passed 39-0
S 1766 Read second time; Read third time; CS passed 38-1
S 1776 Read third time; CS passed 40-0
S 1782 Read third time; CS passed as amended 40-0
S 1784 Read third time; CS passed as amended 40-0; Requested House to return
S 1822 Read third time; CS passed as amended 40-0
S 1824 Read second time
S 1842 Read third time; CS passed as amended 40-0
S 1852 Read third time; CS passed as amended 39-0
S 1854 Read third time; CS passed as amended 40-0
S 1902 Read second time; Read third time; CS passed 39-0
S 1944 Read third time; CS passed as amended 40-0
S 2002 Read second time
S 2084 Read second time; Read third time; CS passed 39-0
S 2122 Read third time; CS passed as amended 40-0
S 2172 Read third time; CS passed 40-0
S 2178 Read second time; Read third time; Passed 39-0
S 2210 Read third time; CS passed 40-0
S 2216 Read second time; Read third time; CS passed 39-0
S 2238 Read third time; CS passed as amended 39-0
S 2296 Read second time; Substituted HB 915; Laid on Table, refer to HB 915
S 2322 Amendment(s) to House amendment(s) adopted; Concurred in House amendment(s) as amended; Requested House to concur; CS passed as amended 40-0
S 2334 Read third time; CS passed 40-0
S 2348 Read third time; CS passed as amended 40-0
S 2364 Read third time; CS passed as amended 39-0
S 2366 Read third time; CS passed 39-0
S 2388 Read third time; CS passed as amended 40-0
S 2390 Read second time
S 2446 Read third time; CS passed 38-1
S 2462 Read third time; CS passed as amended 40-0
S 2518 Read third time; CS passed as amended 40-0
S 2520 Read second time; Read third time; CS passed 39-0
S 2568 Read third time; CS passed as amended 38-0
S 2750 Read second time; Amendment pending
S 2802 Read second time; Read third time; Passed 39-0
S 2974 Adopted
H 533 Read third time; Passed 40-0
H 691 Read third time; Passed as amended 39-0
H 747 Read third time; Passed 39-0
H 761 Read third time; Passed 39-0
H 773 Substituted for SB 1720; Read second time; Read third time; Passed 39-0
H 915 Substituted for CS for SB 2296; Read second time
H 947 Read third time; Passed 39-0
H 1203 Read third time; Passed 40-0
H 1307 Substituted for CS for SB 1450; Read second time
H 1501 Read third time; Passed 39-0
H 1579 Read third time; Passed 40-0
H 1593 Read third time; Passed 40-0
H 1757 Substituted for CS for SB 742; Read second time
H 1813 Substituted for CS for SB 332; Read second time; Read third time; Passed 37-0
H 1839 Substituted for SB 1002; Read second time; Read third time; Passed 40-0

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